

ASSEMBLY BILL

No. 3034

**Introduced by Committee on Judiciary (Corbett (Chair), Dutra,
Jackson, Longville, Shelley, Steinberg, and Wayne)**

March 12, 2002

An act to amend Sections 805.2, 1680, 2028, 2249, 2313, 2401, 3508, 4052, 4982.05, 5081.1, 5093, 6060, 6062, 6072, 6450, 7685, 8008, 8020, 8027, 8538, 8560, 10153.6, 10176.1, 13405, 19455, 19549.14, 20007, and 23987 of the Business and Professions Code, to amend Sections 43.8, 789, 827, 1102.6, 1375, 1375.05, 1632, 1748.13, 1785.11, 1785.11.2, 1798.85, 1936, 1940.7.5, and 3110.5 of the Civil Code, to amend Sections 116.950, 488.455, 700.140, 912, 1174.3, 1206, and 1299.3 of the Code of Civil Procedure, to amend Sections 25607 and 31011 of the Corporations Code, to amend Sections 8277.6, 8278.3, 17250.30, 19325.1, 24209.3, 44303, 44468, 47634.2, 48431.6, 49431, 49433.9, 51727, 56404, 64001, 89005.5, 94945, and 99226 of, and to amend and renumber Section 92665.1 of, the Education Code, to amend Sections 1405, 2185, 3017, 3201, and 13102 of, and to add a heading to Chapter 2 (commencing with Section 21100) of Division 21 of, the Elections Code, to amend Section 8814.5 of the Family Code, to amend Section 21200.1 of the Financial Code, to amend Sections 1103, 6047.7, 8769, 8770, 20437, 21052, and 75090.5 of the Food and Agricultural Code, to amend Sections 1091.3, 9509, 11126, 11550, 12800, 12940, 12965, 13964, 13965, 14672.99, 14684, 19574, 20423.5, 20429, 20677.3, 20683.2, 20816, 21327, 21354.3, 21354.4, 21354.5, 21363, 21423, 21661, 30071, 31461.45, 31491.1, 31491.2, 31676.17, 31676.19, 31966, 32271, 53601, 56334, 65892.13, 67940, and 71639.1 of, and to add the heading of Article 2.11 (commencing with Section 65892.13) to Chapter 4 of Division 1 of Title 7 of, the

Government Code, to repeal Section 71.7 of the Harbors and Navigation Code, to amend Sections 1276.65, 11054, 11377, 11382, 25395.20, 26148, 32121, 33334.2, 33334.22, 33368, 33430, 41705, 42801.1, 42840, 44265, 51452, 104324.2, 114090, and 130140.1 of, to amend the heading of Chapter 5 (commencing with Section 127630) of Part 2 of Division 107 of, to amend and renumber the heading of Chapter 2.5 (commencing with Section 1399.900) of Division 2 of, and to repeal Section 33331.5 of, the Health and Safety Code, to amend Sections 1874.85, 10139.5, 10145.4, and 12699.56 of the Insurance Code, to amend Sections 98.7, 230.1, 1161, 1776, 2695.2, 3212, 3212.10, 9102, and 9103 of the Labor Code, to amend Section 1011 of the Military and Veterans Code, to amend Sections 68, 86, 290, 299.5, 637.5, 11174.4, 12035, 12071, and 12078 of, and to amend the heading of Title 10.2 (commencing with Section 14125) of Part 4 of, the Penal Code, to amend Section 6122 of the Probate Code, to amend Sections 615, 5095.2, 21158.6, 25403.5, 31007, 42645, and 71040 of, and to amend and renumber the heading of Article 5 (commencing with Section 5096.652) of Chapter 1.696 of Division 2 of, the Public Resources Code, to amend Sections 331, 332.1, 332.2, 399.6, 2774.5, 3350, 170016, and 170018 of the Public Utilities Code, to amend Sections 62.1, 756, 11273, 12209, 17053.57, 17073, 17942, 18836, 19551.1, 20543, 21015.6, 23684, and 32402 of the Revenue and Taxation Code, to amend Section 730.5 of the Streets and Highways Code, to amend Section 15076.5 of the Unemployment Insurance Code, to amend Sections 286, 672, 5017, 5068, 9250.7, 12517.5, 12811, 14606.6, 14602.7, 15302, 15620, and 23580 of the Vehicle Code, to amend Sections 10013, 10610.2, 10631, 11912, and 13627.4 of the Water Code, to amend Sections 213.5, 727.4, 903.5, 9320, 9681, 11203, 14087.961, 14103.5, 14132.99, and 19000 of the Welfare and Institutions Code, and to amend Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 3034, as introduced, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.



This bill would restate existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2001, and would not make any substantive change in the law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 805.2 of the Business and Professions
2 Code is amended to read:
- 3 805.2. (a) It is the intent of the Legislature to provide for a
4 comprehensive study of the peer review process as it is conducted
5 by peer review bodies defined in paragraph (1) of subdivision (a)
6 of Section 805, in order to evaluate the continuing validity of
7 Section 805 and Sections 809 to 809.8, inclusive, and their
8 relevance to the conduct of peer review in California. The Medical
9 Board of California shall contract with the Institute for Medical
10 Quality to conduct this study, which shall include, but not be
11 limited to, the following components:
- 12 (1) A comprehensive description of the various steps of ~~and~~
13 decisionmakers in the peer review process as it is conducted by
14 peer review bodies throughout the state, including the role of other
15 related committees of acute care health facilities and clinics
16 involved in the peer review process.
- 17 (2) A survey of peer review cases to determine the incidence of
18 peer review by peer review bodies, and whether they are
19 complying with the reporting requirement in Section 805.
- 20 (3) A description and evaluation of the roles and performance
21 of various state agencies, including the State Department of Health
22 Services and occupational licensing agencies that regulate healing
23 arts professionals, in receiving, reviewing, investigating, and
24 disclosing peer review actions, and in sanctioning peer review
25 bodies for failure to comply with Section 805.
- 26 (4) An assessment of the cost of peer review to licentiates and
27 the facilities which employ them.
- 28 (5) An assessment of the time consumed by the average peer
29 review proceeding, including the hearing provided pursuant to
30 Section 809.2, and a description of any difficulties encountered by

1 either licentiates or facilities in assembling peer review bodies or
2 panels to participate in peer review decisionmaking.

3 (6) An assessment of the need to amend Section 805 and
4 Sections 809 to 809.8, inclusive, to ensure that they continue to be
5 relevant to the actual conduct of peer review as described in
6 paragraph (1), ~~and~~ to evaluate whether the current reporting
7 requirement is yielding timely and accurate information to aid
8 licensing boards in their responsibility to regulate and discipline
9 healing arts practitioners when necessary, and to assure that peer
10 review bodies function in the best interest of patient care.

11 (7) Recommendations of additional mechanisms to stimulate
12 the appropriate reporting of peer review actions under Section
13 805.

14 (8) Recommendations regarding the Section 809 hearing
15 process to improve its overall effectiveness and efficiency.

16 (b) The Institute of Medical Quality shall exercise no authority
17 over the peer review processes of peer review bodies. However,
18 peer review bodies, health care facilities, health care clinics, and
19 health care service plans shall cooperate with the institute and
20 provide data, information, and case files as requested in the
21 timeframe specified by the institute.

22 (c) The institute shall work in cooperation with and under the
23 general oversight of the Medical Director of the Medical Board of
24 California and shall submit a written report with its findings and
25 recommendations to the board and the Legislature no later than
26 November 1, 2002.

27 SEC. 2. Section 1680 of the Business and Professions Code
28 is amended to read:

29 1680. Unprofessional conduct by a person licensed under this
30 chapter is defined as, but is not limited to, the violation of any one
31 of the following:

32 (a) The obtaining of any fee by fraud or misrepresentation.

33 (b) The employment directly or indirectly of any student or
34 suspended or unlicensed dentist to practice dentistry as defined in
35 this chapter.

36 (c) The aiding or abetting of any unlicensed person to practice
37 dentistry.

38 (d) The aiding or abetting of a licensed person to practice
39 dentistry unlawfully.

1 (e) The committing of any act or acts of gross immorality
2 substantially related to the practice of dentistry.

3 (f) The use of any false, assumed, or fictitious name, either as
4 an individual, firm, corporation, or otherwise, or any name other
5 than the name under which he or she is licensed to practice, in
6 advertising or in any other manner indicating that he or she is
7 practicing or will practice dentistry, except that name as is
8 specified in a valid permit issued pursuant to Section 1701.5.

9 (g) The practice of accepting or receiving any commission or
10 the rebating in any form or manner of fees for professional
11 services, radiograms, prescriptions, or other services or articles
12 supplied to patients.

13 (h) The making use by the licentiate or any agent of the
14 licentiate of any advertising statements of a character tending to
15 deceive or mislead the public.

16 (i) The advertising of either professional superiority or the
17 advertising of performance of professional services in a superior
18 manner. This subdivision shall not prohibit advertising permitted
19 by subdivision (h) of Section 651.

20 (j) The employing or the making use of solicitors.

21 (k) The advertising in violation of Section 651.

22 (l) The advertising to guarantee any dental service, or to
23 perform any dental operation painlessly. This subdivision shall not
24 prohibit advertising permitted by Section 651.

25 (m) The violation of any of the provisions of law regulating the
26 procurement, dispensing, or administration of dangerous drugs, as
27 defined in Article 7 (commencing with Section 4211) of Chapter
28 9, or controlled substances, as defined in Division 10
29 (commencing with Section 11000) of the Health and Safety Code.

30 (n) The violation of any of the provisions of this division.

31 (o) The permitting of any person to operate dental radiographic
32 equipment who has not met the requirements of Section 1656.

33 (p) The clearly excessive prescribing or administering of drugs
34 or treatment, or the clearly excessive use of diagnostic procedures,
35 or the clearly excessive use of diagnostic or treatment facilities, as
36 determined by the customary practice and standards of the dental
37 profession.

38 Any person who violates this subdivision is guilty of a
39 misdemeanor and shall be punished by a fine of not less than one
40 hundred dollars (\$100) or more than six hundred dollars (\$600),

1 or by imprisonment for a term of not less than 60 days or more than
2 180 days, or by both a fine and imprisonment.

3 (q) The use of threats or harassment against any patient or
4 licentiate for providing evidence in any possible or actual
5 disciplinary action, or other legal action; or the discharge of an
6 employee primarily based on the employee's attempt to comply
7 with the provisions of this chapter or to aid in the compliance.

8 (r) Suspension or revocation of a license issued, or discipline
9 imposed, by another state or territory on grounds which would be
10 the basis of discipline in this state.

11 (s) The alteration of a patient's record with intent to deceive.

12 (t) Unsanitary or unsafe office conditions, as determined by the
13 customary practice and standards of the dental profession.

14 (u) The abandonment of the patient by the licentiate, without
15 written notice to the patient that treatment is to be discontinued and
16 before the patient has ample opportunity to secure the services of
17 another dentist and provided the health of the patient is not
18 jeopardized.

19 (v) The willful misrepresentation of facts relating to a
20 disciplinary action to the patients of a disciplined licentiate.

21 (w) Use of fraud in the procurement of any license issued
22 pursuant to this chapter.

23 (x) Any action or conduct which would have warranted the
24 denial of the license.

25 (y) The aiding or abetting of a licensed dentist or dental
26 auxiliary to practice dentistry in a negligent or incompetent
27 manner.

28 (z) The failure to report to the board in writing within seven
29 days any of the following: (1) the death of his or her patient during
30 the performance of any dental procedure; (2) the discovery of the
31 death of a patient whose death is related to a dental procedure
32 performed by him or her; or (3) except for a scheduled
33 hospitalization, the removal to a hospital or emergency center for
34 medical treatment for a period exceeding 24 hours of any patient
35 to whom oral conscious sedation, conscious sedation, or general
36 anesthesia was administered, or any patient as a result of dental
37 treatment. With the exception of patients to whom oral conscious
38 sedation, conscious sedation, or general anesthesia was
39 administered, removal to a hospital or emergency center that is the
40 normal or expected treatment for the underlying dental condition

1 is not required to be reported. Upon receipt of a report pursuant to
2 this subdivision the board may conduct an inspection of the dental
3 office if the board finds that it is necessary.

4 (aa) Participating in or operating any group advertising and
5 referral services ~~which is~~ *that are* in violation of Section 650.2.

6 (bb) The failure to use a fail-safe machine with an appropriate
7 exhaust system in the administration of nitrous oxide. The board
8 shall, by regulation, define what constitutes a fail-safe machine.

9 (cc) Engaging in the practice of dentistry with an expired
10 license.

11 (dd) Except for good cause, the knowing failure to protect
12 patients by failing to follow infection control guidelines of the
13 board, thereby risking transmission of blood-borne infectious
14 diseases from dentist or dental auxiliary to patient, from patient to
15 patient, and from patient to dentist or dental auxiliary. In
16 administering this subdivision, the board shall consider
17 referencing the standards, regulations, and guidelines of the State
18 Department of Health Services developed pursuant to Section
19 1250.11 of the Health and Safety Code and the standards,
20 guidelines, and regulations pursuant to the California
21 Occupational Safety and Health Act of 1973 (Part 1 (commencing
22 with Section 6300), Division 5, Labor Code) for preventing the
23 transmission of HIV, hepatitis B, and other blood-borne pathogens
24 in health care settings. As necessary, the board shall consult with
25 the ~~California~~ *Medical Board of California*, the Board of Podiatric
26 Medicine, the Board of Registered Nursing, and the Board of
27 Vocational Nursing and Psychiatric Technicians, to encourage
28 appropriate consistency in the implementation of this subdivision.

29 The board shall seek to ensure that licentiates and others
30 regulated by the board are informed of the responsibility of
31 licentiates and others to follow infection control guidelines, and of
32 the most recent scientifically recognized safeguards for
33 minimizing the risk of transmission of blood-borne infectious
34 diseases.

35 (ee) The utilization by a licensed dentist of any person to
36 perform the functions of a registered dental assistant, registered
37 dental assistant in extended functions, registered dental hygienist,
38 or registered dental hygienist in extended functions who, at the
39 time of initial employment, does not possess a current, valid
40 license to perform those functions.

1 SEC. 3. Section 2028 of the Business and Professions Code
2 is amended to read:

3 2028. (a) The Medical Board of California shall consult with
4 the California State Board of Pharmacy and commission a study
5 and report its results to the Legislature on or before January 1,
6 2003, on the electronic transmission of prescriptions by physicians
7 and surgeons.

8 (b) This report shall include recommendations on the
9 following matters:

10 (1) Whether the electronic transmission of prescriptions should
11 be encouraged.

12 (2) Methods to encourage physicians and surgeons, health care
13 providers specified in subdivision (a) of Section 4024, and persons
14 licensed to prescribe in another state who meet the requirements
15 described in subdivision (b) of Section 4005 to issue prescriptions
16 by electronic transmission.

17 (3) Identification of systems to protect confidential personal
18 and medical information of patients for whom prescriptions are
19 issued using electronic transmission, including, but not limited to,
20 the issuance of digital certification to physicians and surgeons,
21 health care providers specified in subdivision (a) of Section 4024,
22 and persons licensed to prescribe in another state who meet the
23 requirements described in subdivision (b) of Section 4005 to use
24 when transmitting prescriptions ~~electronically.~~ *electronically.*

25 (c) ~~Digital~~ *“Digital certification”* is an electronic signature
26 verifying the identity of the physician and surgeon, health care
27 provider specified in subdivision (a) of Section 4024, or person
28 licensed to prescribe in another state who meets the requirements
29 described in subdivision (b) of Section 4005 who is transmitting
30 the prescription electronically.

31 SEC. 4. Section 2249 of the Business and Professions Code
32 is amended to read:

33 2249. (a) A physician and surgeon primarily responsible for
34 providing a patient an annual gynecological examination shall
35 provide that patient during the annual examination in layperson’s
36 language and in a language understood by the patient a
37 standardized summary containing a description of the symptoms
38 and appropriate methods of diagnoses for gynecological cancers.
39 This section does not preclude the use of existing publications or
40 pamphlets developed by nationally recognized cancer



1 organizations or by the State Department of Health Services
2 pursuant to Section 138.4 of the Health and Safety Code.

3 (b) A physician and surgeon who violates this section may be
4 cited and assessed an administrative fine. No citation shall be
5 issued and no fine shall be assessed upon the first complaint
6 against a physician and surgeon who violates this section. Upon the
7 second and subsequent complaints against a physician ~~or~~ and
8 surgeon who violates this section, a citation may be issued and an
9 administrative fine may be assessed.

10 (c) Notwithstanding any other provision of law, all fines
11 collected pursuant to this section shall be credited to the
12 Contingent Fund of the Medical Board of California to be used by
13 the Office of Women's Health within the State Department of
14 Health Services for outreach services that provide information to
15 women about gynecological cancers, but shall not be expended
16 until they are appropriated by the Legislature in the Budget Act or
17 another statute.

18 (d) Section 2314 shall not apply to this section.

19 SEC. 5. Section 2313 of the Business and Professions Code
20 is amended to read:

21 2313. The Division of Medical Quality shall report annually
22 to the Legislature, no later than October 1 of each year, the
23 following information:

24 (a) The total number of temporary restraining orders or interim
25 suspension orders sought by the board or the division to enjoin
26 licensees pursuant to Sections 125.7, 125.8, and 2311, the
27 circumstances in each case that prompted the board or division to
28 seek that injunctive relief, and whether a restraining order or
29 interim suspension order was actually issued.

30 (b) The total number and types of actions for unprofessional
31 conduct taken by the board or a division against licensees, the
32 number and types of actions taken against licensees for
33 unprofessional conduct related to prescribing drugs, narcotics, or
34 other controlled substances, including those related to the
35 undertreatment or undermedication of pain.

36 (c) Information relative to the performance of the division,
37 including the following: number of consumer calls received;
38 number of consumer calls or letters designated as
39 discipline-related complaints; number of calls resulting in
40 complaint forms being sent to complainants and number of forms

1 returned; number of Section 805 reports by type; number of
2 Section 801 and Section 803 reports; coroner reports received;
3 number of convictions reported to the division; number of criminal
4 filings reported to the division; number of complaints and referrals
5 closed, referred out, or resolved without discipline, respectively,
6 prior to accusation; number of accusations filed and final
7 disposition of accusations through the division and court review,
8 respectively; final physician discipline by category; number of
9 citations issued with fines and without fines, and number of public
10 reprimands issued; number of cases in process more than six
11 months from receipt by the division of information concerning the
12 relevant acts to the filing of an accusation; average and median
13 time in processing complaints from original receipt of complaint
14 by the division for all cases at each stage of discipline and court
15 review, respectively; number of persons in diversion, and number
16 successfully completing diversion programs and failing to do so,
17 respectively; probation violation reports and probation revocation
18 filings and dispositions; number of petitions for reinstatement and
19 their dispositions; and caseloads of investigators for original cases
20 and for probation cases, respectively.

21 “Action,” for purposes of this section, includes proceedings
22 brought by, or on behalf of, the division against licensees for
23 unprofessional conduct which have not been finally adjudicated,
24 as well as disciplinary actions taken against licensees.

25 (d) The total number of reports received pursuant to Section
26 805 by the type of peer review body reporting and, where
27 applicable, the type of health care facility involved and the total
28 number and type of administrative or disciplinary actions taken by
29 the Medical Board of California with respect to the reports.

30 SEC. 6. Section 2401 of the Business and Professions Code
31 is amended to read:

32 2401. (a) Notwithstanding Section 2400, a clinic operated
33 primarily for the purpose of medical education by a public or
34 private nonprofit university medical school, which is approved by
35 the Division of Licensing or the Osteopathic Medical Board of
36 California, may charge for professional services rendered to
37 teaching patients by licensees who hold academic appointments on
38 the faculty of the university, if the charges are approved by the
39 physician and surgeon in whose name the charges are made.



(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct ~~a physician and surgeon's~~ *the professional judgment of a physician and surgeon* in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct ~~a physician or surgeon's~~ *the professional judgment of a physician and surgeon* in a manner prohibited by Section 2400 or any other provision of law.

SEC. 7. Section 3508 of the Business and Professions Code is amended to read:

3508. (a) The committee may convene from time to time as deemed necessary by the committee.

(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving ~~such~~ notification.

(c) The committee shall receive permission of the director to meet more than six times annually. The director shall approve ~~such~~ meetings that are necessary for the committee to fulfill its legal responsibilities.

SEC. 8. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians,

1 pharmacists, and registered nurses, with the concurrence of the
2 facility administrator:

3 (A) Ordering or performing routine drug therapy-related
4 patient assessment procedures including temperature, pulse, and
5 respiration.

6 (B) Ordering drug therapy-related laboratory tests.

7 (C) Administering drugs and biologicals by injection pursuant
8 to a prescriber's order (the administration of immunizations under
9 the supervision of a prescriber may also be performed outside of
10 a licensed health care facility).

11 (D) Initiating or adjusting the drug regimen of a patient
12 pursuant to an order or authorization made by the patient's
13 prescriber and in accordance with the policies, procedures, or
14 protocols of the licensed health care facility.

15 (5) (A) Perform the following procedures or functions as part
16 of the care provided by a health care facility, a licensed home
17 health agency, a licensed clinic in which there is a physician
18 oversight, a provider who contracts with a licensed health care
19 service plan with regard to the care or services provided to the
20 enrollees of that health care service plan, or a physician, in
21 accordance, as applicable, with policies, procedures, or protocols
22 of that facility, the home health agency, the licensed clinic, the
23 health care service plan, or that physician, in accordance with
24 subparagraph (C):

25 (i) Ordering or performing routine drug therapy-related patient
26 assessment procedures including temperature, pulse, and
27 respiration.

28 (ii) Ordering drug therapy-related laboratory tests.

29 (iii) Administering drugs and biologicals by injection pursuant
30 to a prescriber's order (the administration of immunizations under
31 the supervision of a prescriber may also be performed outside of
32 a licensed health care facility).

33 (iv) Initiating or adjusting the drug regimen of a patient
34 pursuant to a specific written order or authorization made by the
35 patient's prescriber for the individual patient, and in accordance
36 with the policies, procedures, or protocols of the health care
37 facility, home health agency, licensed clinic, health care service
38 plan, or physician. Adjusting the drug regimen does not include
39 substituting or selecting a different drug, except as authorized by
40 the protocol. The pharmacist shall provide written notification to



1 the patient's prescriber, or enter the appropriate information in an
2 electronic patient record system shared by the prescriber, of any
3 drug regimen initiated pursuant to this clause within 24 hours.

4 (B) A patient's prescriber may prohibit, by written instruction,
5 any adjustment or change in the patient's drug regimen by the
6 pharmacist.

7 (C) The policies, procedures, or protocols referred to in this
8 paragraph shall be developed by health care professionals,
9 including physicians, pharmacists, and registered nurses, and, at
10 a minimum, meet all of the following requirements:

11 (i) Require that the pharmacist function as part of a
12 multidisciplinary group that includes physicians and direct care
13 registered nurses. The multidisciplinary group shall determine the
14 appropriate participation of the pharmacist and the direct care
15 registered nurse.

16 (ii) Require that the medical records of the patient be available
17 to both the patient's prescriber and the pharmacist.

18 (iii) Require that the procedures to be performed by the
19 pharmacist relate to a condition for which the patient has first been
20 seen by a physician.

21 (iv) Except for procedures or functions provided by a health
22 care facility, a licensed clinic in which there is physician oversight,
23 or a provider who contracts with a licensed health care plan with
24 regard to the care or services provided to the enrollees of that
25 health care service plan, require the procedures to be performed in
26 accordance with a written, patient-specific protocol approved by
27 the treating or supervising physician. Any change, adjustment, or
28 modification of an approved preexisting treatment or drug therapy
29 shall be provided in writing to the treating or supervising physician
30 within 24 hours.

31 (6) Manufacture, measure, fit to the patient, or sell and repair
32 dangerous devices or furnish instructions to the patient or the
33 patient's representative concerning the use of those devices.

34 (7) Provide consultation to patients and professional
35 information, including clinical or pharmacological information,
36 advice, or consultation to other health care professionals.

37 (8) Initiate emergency contraception drug therapy in
38 accordance with standardized procedures or protocols developed
39 by the pharmacist and an authorized prescriber who is acting
40 within his or her scope of practice. Prior to performing any

1 procedure authorized under this paragraph, a pharmacist shall
2 have completed a training program on emergency contraception,
3 which includes, but is not limited to, conduct of sensitive
4 communications, quality assurance, referral to additional services,
5 and documentation.

6 (b) (1) Prior to performing any procedure authorized by
7 paragraph (4) of subdivision (a), a pharmacist shall have received
8 appropriate training as prescribed in the policies and procedures
9 of the licensed health care facility.

10 (2) Prior to performing any procedure authorized by paragraph
11 (5) of subdivision (a), a pharmacist shall have either ~~(1)~~ (A)
12 successfully completed clinical residency training or ~~(2)~~ (B)
13 demonstrated clinical experience in direct patient care delivery.

14 (3) For each emergency contraception drug therapy initiated
15 pursuant to paragraph (8) of subdivision (a), the pharmacist shall
16 provide the recipient of the emergency contraception drugs with
17 a standardized fact sheet that includes, but is not limited to, the
18 indications for use of the drug, the appropriate method for using
19 the drug, the need for medical followup, and other appropriate
20 information. The board shall develop this form in consultation
21 with the State Department of Health Services, the American
22 College of Obstetricians and Gynecologists, the California
23 Pharmacists Association, and other health care organizations. The
24 provisions of this section do not preclude the use of existing
25 publications developed by nationally recognized medical
26 organizations.

27 (c) Nothing in this section shall affect the requirements of
28 existing law relating to maintaining the confidentiality of medical
29 records.

30 (d) Nothing in this section shall affect the requirements of
31 existing law relating to the licensing of a health care facility.

32 SEC. 9. Section 4982.05 of the Business and Professions
33 Code is amended to read:

34 4982.05. (a) Except as provided in subdivisions (b), (c), and
35 (e), any accusation filed against a licensee pursuant to Section
36 11503 of the Government Code shall be filed within three years
37 from the date the board discovers the alleged act or omission that
38 is the basis for disciplinary action, or within seven years from the
39 date the alleged act or omission that is the basis for disciplinary
40 action occurred, whichever occurs first.

1 (b) An accusation filed against a licensee pursuant to Section
2 11503 of the Government Code alleging the procurement of a
3 license by fraud or misrepresentation is not subject to the
4 limitations set forth in subdivision (a).

5 (c) The limitation provided for by subdivision (a) shall be
6 tolled for the length of time required to obtain compliance when
7 a report required to be filed by the licensee or registrant with the
8 board pursuant to Article 11 (commencing with Section 800) of
9 Chapter 1 is not filed in a timely fashion.

10 (d) If an alleged act or omission involves a minor, the
11 seven-year limitations period provided for by subdivision (a) and
12 the 10-year limitations period provided for by subdivision (e) shall
13 be tolled until the minor reaches the age of majority.

14 (e) An accusation filed against a licensee pursuant to Section
15 11503 of the Government Code alleging sexual misconduct shall
16 be filed within three years after the board discovers the act or
17 omission alleged as the ground for disciplinary action, or within
18 10 years after the act or omission alleged as the grounds for
19 disciplinary action occurs, whichever occurs first. This
20 subdivision shall apply to a complaint alleging sexual misconduct
21 received by the board on and after January 1, 2002.

22 (f) The limitations period provided by subdivision (a) shall be
23 tolled during any period if material evidence necessary for
24 prosecuting or determining whether a disciplinary action would be
25 appropriate is unavailable to the board due to an ongoing criminal
26 investigation.

27 SEC. 10. Section 5081.1 of the Business and Professions
28 Code is amended to read:

29 5081.1. Pursuant to subdivision (b) of Section 5090, an
30 applicant for admission to the examination for a certified public
31 accountant certificate may qualify for admission with one of the
32 following:

33 (a) The applicant shall present satisfactory evidence that the
34 applicant has either of the following:

35 (1) A baccalaureate degree from a university, college or other
36 four-year institution of learning accredited by a regional
37 institutional accrediting agency included in a list of these agencies
38 published by the United States Secretary of Education under the
39 requirements of; the Higher Education Act of 1965 as amended;
40 (20 U.S.C. Sec. 1001 ~~and following~~ *et seq.*) with a major in

1 accounting or related subjects requiring a minimum of 45 semester
2 units of instruction in these subjects. If the applicant has received
3 a baccalaureate degree in a nonaccounting major, the applicant
4 shall present satisfactory evidence of study substantially the
5 equivalent of an accounting major, including courses in related
6 business administration subjects.

7 (2) A degree or degrees from a college, university, or other
8 institution of learning located outside the United States that is
9 approved by the board as the equivalent of the baccalaureate
10 degree described in paragraph (1). The board may require an
11 applicant under this paragraph to submit documentation of his or
12 her education to a credentials evaluation service approved by the
13 board for evaluation and to cause the results of this evaluation to
14 be reported to the board. The board shall adopt regulations
15 specifying the criteria and procedures for approval of credential
16 evaluation services. These regulations shall, at a minimum,
17 require that the credential evaluation service (A) furnish
18 evaluations directly to the board, (B) furnish evaluations written
19 in English, (C) be a member of the American Association of
20 Collegiate Registrars and Admission Officers, the National
21 Association of Foreign Student Affairs, or the National
22 Association of Credential Evaluation Services, (D) be used by
23 accredited colleges and universities, (E) be reevaluated by the
24 board every five years, (F) maintain a complete set of reference
25 materials as specified by the board, (G) base evaluations only upon
26 authentic, original transcripts and degrees and have a written
27 procedure for identifying fraudulent transcripts, (H) include in the
28 evaluation report, for each degree held by the applicant, the
29 equivalent degree offered in the United States, the date the degree
30 was granted, the institution granting the degree, an English
31 translation of the course titles, and the semester unit equivalence
32 for each of the courses, (I) have an appeal procedure for applicants,
33 and (J) furnish the board with information concerning the
34 credential evaluation service that includes biographical
35 information on evaluators and translators, three letters of
36 ~~references~~ *reference* from public or private agencies, statistical
37 information on the number of applications processed annually for
38 the past five years, and any additional information the board may
39 require in order to ascertain that the credential evaluation service

1 meets the standards set forth in this paragraph and in any
2 regulations adopted by the board.

3 (b) The applicant shall present satisfactory evidence that the
4 applicant has successfully completed a two-year course of college
5 level study or received an associate of arts degree from a
6 community college, either institution accredited by a regional
7 institutional accrediting agency that is included in a list published
8 by the United States Secretary of Education under the provisions
9 of federal law specified in paragraph (1) of subdivision (a), and
10 that the applicant has completed a minimum of 120 semester units
11 which includes the study of accounting and related business
12 administration subjects.

13 (c) The applicant shall show to the satisfaction of the board that
14 he or she has had the equivalent of the educational qualifications
15 required by subdivision (b), or shall pass a preliminary written
16 examination approved and administered by an agency approved
17 by the California State Department of Education and shall have
18 completed a minimum of 10 semester units or the equivalent in
19 accounting subjects. The 10 semester units in accounting subjects
20 shall be completed at a college, university, or other institution of
21 higher learning accredited at the college level by an agency or
22 association that is included in a list published by the United States
23 Secretary of Education under the federal law specified in
24 paragraph (1) of subdivision (a).

25 (d) The applicant shall be a public accountant registered under
26 this chapter.

27 (e) This section shall remain in effect only until January 1,
28 2006, and as of that date is repealed, unless a later enacted statute,
29 that is enacted before January 1, 2006, deletes or extends that date.

30 SEC. 11. Section 5093 of the Business and Professions Code
31 is amended to read:

32 5093. (a) To qualify for the certified public accountant
33 license, an applicant who is applying under this section shall meet
34 the education, examination, and experience requirements
35 specified in subdivisions (b), (c), and (d) of this section. The board
36 may adopt regulations as necessary to implement this section.

37 (b) (1) An applicant for admission to the certified public
38 accountant examination under the provisions of this section shall
39 present satisfactory evidence that the applicant has completed a
40 baccalaureate or higher degree conferred by a college or

1 university, meeting, at a minimum, the standards described in
2 Section 5094, the total educational program to include a minimum
3 of 24 semester units in accounting subjects and 24 semester units
4 in business related subjects. This evidence shall be provided at the
5 time of application for admission to the examination, except that
6 an applicant who passed the examination before December 31,
7 2001, may provide this evidence at the time of application for
8 licensure provided the applicant applies and qualifies for licensure
9 before January 1, 2006.

10 (2) An applicant for issuance of the certified public accountant
11 license under the provisions of this section shall present
12 satisfactory evidence that the applicant has completed at least 150
13 semester units of college education including a baccalaureate or
14 higher degree conferred by a college or university, meeting, at a
15 minimum, the standards described in Section 5094, the total
16 educational program to include a minimum of 24 semester units
17 in accounting subjects and 24 semester units in business related
18 subjects. This evidence shall be presented at the time of application
19 for the certified public accountant license.

20 (c) An applicant for the certified public accountant license shall
21 pass an examination in accounting, auditing, and other subjects the
22 board deems appropriate. An applicant who fails this examination
23 has the right to reexamination. During the time this examination
24 is a written, paper and pencil examination, the applicant shall pass
25 the examination in accordance with the requirements of
26 paragraphs (1) and (2) of this subdivision.

27 (1) If at a given sitting of the examination an applicant passes
28 two or more subjects, but does not pass all subjects, the applicant
29 shall be given conditional credit for those subjects and the
30 applicant does not need to sit for reexamination in those subjects,
31 provided that:

32 (A) At that sitting the applicant sat for all subjects for which the
33 applicant does not have credit.

34 (B) The applicant attained a minimum standardized score of 50
35 as determined by the board on each subject taken at that sitting.

36 (2) In order to pass the examination pursuant to the conditional
37 credit described in paragraph (1), the applicant shall pass the
38 remaining subjects within six subsequent consecutive
39 examinations given after the one at which the first subjects were
40 passed provided that:

1 (A) At each subsequent sitting at which the applicant seeks to
2 pass any additional subjects, the applicant ~~sits~~ *shall sit* for all
3 subjects for which the applicant does not have credit.

4 (B) In order to receive credit for passing additional subjects in
5 any subsequent sitting, the applicant ~~attains~~ *shall attain* a
6 minimum standardized score of 50 as determined by the board on
7 the subjects taken at that sitting.

8 The conditional credit period provided in this section may be
9 extended by the board upon a showing of extraordinary
10 extenuating circumstances which prevented the applicant from
11 retaking the examination period.

12 (d) The applicant shall show, to the satisfaction of the board,
13 that the applicant has had one year of qualifying experience. This
14 experience may include providing any type of service or advice
15 involving the use of accounting, attest, compilation, management
16 advisory, financial advisory, tax or consulting skills. To be
17 qualifying under this section, experience shall have been
18 performed in accordance with applicable professional standards.
19 Experience in public accounting shall be completed under the
20 supervision or in the employ of a person licensed or otherwise
21 having comparable authority under the laws of any state or country
22 to engage in the practice of public accountancy. Experience in
23 private or governmental accounting or auditing shall be completed
24 under the supervision of an individual licensed by a state to engage
25 in the practice of public accountancy.

26 SEC. 12. Section 6060 of the Business and Professions Code
27 is amended to read:

28 6060. To be certified to the Supreme Court for admission and
29 a license to practice law, a person who has not been admitted to
30 practice law in a sister state, United States jurisdiction, possession,
31 territory, or dependency or in a foreign country shall:

32 (a) Be of the age of at least 18 years.

33 (b) Be of good moral character.

34 (c) Before beginning the study of law, have done either of the
35 following:

36 (1) Completed at least two years of college work, which college
37 work shall be not less than one-half of the collegiate work
38 acceptable for a bachelor's degree granted upon the basis of a
39 four-year period of study by a college or university approved by
40 the examining committee.

(2) Have attained in apparent intellectual ability the equivalent of at least two years of college work by taking any examinations in ~~such~~ subject matters and achieving the scores thereon as are prescribed by the examining committee.

(d) Have registered with the examining committee as a law student within 90 days after beginning the study of law. The examining committee, upon good cause being shown, may permit a later registration.

(e) Have done any of the following:

(1) Had conferred upon him or her a juris doctor (J.D.) degree or a bachelor of laws (LL.B.) degree by a law school accredited by the examining committee or approved by the American Bar Association.

(2) Studied law diligently and in good faith for at least four years in any of the following manners:

(A) In a law school that is authorized or approved to confer professional degrees and requires classroom attendance of its students for a minimum of 270 hours a year.

A person who has received his or her legal education in a foreign state or country wherein the common law of England does not constitute the basis of jurisprudence shall demonstrate to the satisfaction of the examining committee that his or her education, experience, and qualifications qualify him or her to take the examination.

(B) In a law office in this state and under the personal supervision of a member of the State Bar of California who is, and for at least *the last* five years ~~last-past~~ continuously has been, engaged in the active practice of law. It is the duty of the supervising attorney to render any periodic reports to the examining committee as the committee may require.

(C) In the chambers and under the personal supervision of a judge of a court of record of this state. It is the duty of the supervising judge to render any periodic reports to the examining committee as the committee may require.

(D) By instruction in law from a correspondence law school authorized or approved to confer professional degrees by this state, which requires 864 hours of preparation and study per year for four years.

(E) By any combination of the methods referred to in this paragraph (2) ~~of this subdivision~~.

1 (f) Have passed any examination in professional responsibility
2 or legal ethics as the examining committee may prescribe.

3 (g) Have passed the general bar examination given by the
4 examining committee.

5 (h) (1) Have passed a law students' examination administered
6 by the examining committee after completion of his or her first
7 year of law study. Those who pass the examination within its first
8 three administrations upon becoming eligible to take the
9 examination shall receive credit for all law studies completed to
10 the time the examination is passed. Those who do not pass the
11 examination within its first three administrations upon becoming
12 eligible to take the examination, but who subsequently pass the
13 examination, shall receive credit for one year of legal study only.

14 (2) This requirement does not apply to a student who has
15 satisfactorily completed his or her first year of law study at a law
16 school accredited by the examining committee and who has
17 completed at least two years of college work prior to matriculating
18 in the accredited law school, nor shall this requirement apply to an
19 applicant who has passed the bar examination of a sister state or
20 of a country in which the common law of England constitutes the
21 basis of jurisprudence.

22 The law students' examination shall be administered twice a
23 year at reasonable intervals.

24 SEC. 13. Section 6062 of the Business and Professions Code
25 is amended to read:

26 6062. (a) To be certified to the Supreme Court for admission,
27 and a license to practice law, a person who has been admitted to
28 practice law in a sister state, United States jurisdiction, possession,
29 territory, or dependency the United States may hereafter acquire
30 shall:

31 (1) Be of the age of at least 18 years.

32 (2) Be of good moral character.

33 (3) Have passed the general bar examination given by the
34 examining committee. However, if that person has been an active
35 member in good standing of the bar of the admitting sister state or
36 United States jurisdiction, possession, or territory for at least four
37 years immediately preceding the first day of the examination
38 applied for, he or she may elect to take the Attorneys' Examination
39 rather than the general bar examination. Attorneys admitted less
40 than four years and attorneys admitted four years or more in

1 another jurisdiction but who have not been active members in good
2 standing of their admitting jurisdiction for at least four years
3 immediately ~~proceeding~~ *preceding* the first day of the
4 examination applied for must take the general bar examination
5 administered to general applicants not admitted as attorneys in
6 other jurisdictions.

7 (4) Have passed an examination in professional responsibility
8 or legal ethics as the examining committee may prescribe.

9 (b) To be certified to the Supreme Court for admission, and a
10 license to practice law, a person who has been admitted to practice
11 law in a jurisdiction other than in a sister state, United States
12 jurisdiction, possession, or territory shall:

13 (1) Be of the age of at least 18 years.

14 (2) Be of good moral character.

15 (3) Have passed the general bar examination given by the
16 examining committee.

17 (4) Have passed an examination in professional responsibility
18 or legal ethics as the examining committee may prescribe.

19 (c) The amendments to this section made at the 1997–98
20 Regular Session of the Legislature shall be applicable on and after
21 January 1, 1997, and do not constitute a change in, but are
22 declaratory of, existing law.

23 SEC. 14. Section 6072 of the Business and Professions Code
24 is amended to read:

25 6072. (a) A contract with the state for legal services that
26 exceeds fifty thousand dollars (\$50,000) shall include a
27 certification by the contracting law firm that the firm agrees to
28 make a good faith effort to provide, during the duration of the
29 contract, a minimum number of hours of pro bono legal services
30 during each year of the contract equal to the lesser of 30 multiplied
31 by the number of full-time attorneys in the firm's offices in the
32 state, with the number of hours prorated on an actual day basis for
33 any contract period of less than a full year or 10 percent of its
34 contract with the state.

35 (b) Failure to make a good faith effort may be cause for
36 nonrenewal of a state contract for legal services and may be taken
37 into account when determining the award of future contracts with
38 the state for legal services. If a firm fails to provide the hours of
39 pro bono legal services set forth in its certification, the following

1 factors shall be considered in determining whether the firm made
2 a good faith effort:

3 (1) The actual number of hours of pro bono legal services
4 provided by the firm during the term of the contract.

5 (2) The firm's efforts to obtain pro bono legal work from legal
6 services programs, pro bono programs, and other relevant
7 communities or groups.

8 (3) The firm's history of providing pro bono legal services, or
9 other activities of the firm that evidence a good faith effort to
10 provide pro bono legal services such as the adoption of a pro bono
11 policy or the creation of a pro bono committee.

12 (4) The types of pro bono legal services provided, including the
13 quantity and complexity of cases as well as the nature of the relief
14 sought.

15 (5) The extent to which the failure to provide the hours of pro
16 bono legal services set forth in the certification is the result of
17 extenuating circumstances ~~unforeseen~~ *unforeseen* at the time of the
18 certification.

19 (c) In awarding a contract with the state for legal services that
20 exceeds fifty thousand dollars (\$50,000), the awarding department
21 shall consider the efforts of a potential contracting law firm to
22 provide, during the 12-month period prior to award of the contract,
23 the minimum number of hours of pro bono legal services described
24 in subdivision (a). Other things being equal, the awarding
25 department shall award a contract for legal services to firms that
26 have provided, during the 12-month period prior to award of the
27 contract, the minimum number of hours of pro bono legal services
28 described in subdivision (a).

29 (d) As used in this section, "pro bono legal services" means the
30 provision of legal services either:

31 (1) Without fee or expectation of fee to either *of the following*:

32 (A) Persons who are indigent or of limited means.

33 (B) Charitable, religious, civic, community, governmental,
34 and educational organizations in matters designed primarily to
35 address the economic, health, and social needs of persons who are
36 indigent or of limited means.

37 (2) At no fee or substantially reduced fee to groups or
38 organizations seeking to secure or protect civil rights, civil
39 liberties, or public rights.

(e) Nothing in this section shall subject a contracting law firm that fails to provide the minimum number of hours of pro bono legal services described in subdivision (a) to civil or criminal liability, nor shall that failure be grounds for invalidating an existing contract for legal services.

(f) This article shall not apply to state contracts with, or appointments made by the judiciary of, an attorney, law firm, or organization for the purposes of providing legal representation to low- or middle-income persons, in either civil, criminal, or administrative matters.

(g) This article shall not apply to contracts entered into between the state and an attorney or law firm if the legal services contracted for are to be performed outside the State of California.

(h) The provisions of this article shall become operative on January 1, 2003.

SEC. 15. Section 6450 of the Business and Professions Code, as amended by Section 1 of Chapter 311 of the Statutes of 2001, is amended to read:

6450. (a) "Paralegal" means a person who holds himself or herself out to be a paralegal, who is qualified by education, training, or work experience, ~~and~~ who either contracts with or is employed by an attorney, law firm, corporation, governmental agency, or other entity, and who performs substantial legal work under the direction and supervision of an active member of the State Bar of California, as defined in Section 6060, or an attorney practicing law in the federal courts of this state, that has been specifically delegated by the attorney to him or her. Tasks performed by a paralegal may include, but are not limited to, case planning, development, and management; legal research; interviewing clients; fact gathering and retrieving information; drafting and analyzing legal documents; collecting, compiling, and utilizing technical information to make an independent decision and recommendation to the supervising attorney; and representing clients before a state or federal administrative agency if that representation is permitted by statute, court rule, or administrative rule or regulation.

(b) Notwithstanding subdivision (a), a paralegal shall not do any of the following:

(1) Provide legal advice.

(2) Represent a client in court.

1 (3) Select, explain, draft, or recommend the use of any legal
2 document to or for any person other than the attorney who directs
3 and supervises the paralegal.

4 (4) Act as a runner or capper, as defined in Sections 6151 and
5 6152.

6 (5) Engage in conduct that constitutes the unlawful practice of
7 law.

8 (6) Contract with, or be employed by, a natural person other
9 than an attorney to perform paralegal services.

10 (7) In connection with providing paralegal services, induce a
11 person to make an investment, purchase a financial product or
12 service, or enter a transaction from which income or profit, or
13 both, purportedly may be derived.

14 (8) Establish the fees to charge a client for the services the
15 paralegal performs, which shall be established by the attorney who
16 supervises the paralegal's work. This paragraph does not apply to
17 fees charged by a paralegal in a contract to provide paralegal
18 services to an attorney, law firm, corporation, governmental
19 agency, or other entity as provided in subdivision (a).

20 (c) A paralegal shall possess at least one of the following:

21 (1) A certificate of completion of a paralegal program
22 approved by the American Bar Association.

23 (2) A certificate of completion of a paralegal program at, or a
24 degree from, a postsecondary institution that requires the
25 successful completion of a minimum of 24 semester, or equivalent,
26 units in law-related courses and that has been accredited by a
27 national or regional accrediting organization or approved by the
28 Bureau for Private Postsecondary and Vocational Education.

29 (3) A baccalaureate degree or an advanced degree in any
30 subject, a minimum of one year of law-related experience under
31 the supervision of an attorney who has been an active member of
32 the State Bar of California for at least the preceding three years or
33 who has practiced in the federal courts of this state for at least the
34 preceding three years, and a written declaration from this attorney
35 stating that the person is qualified to perform paralegal tasks.

36 (4) A high school diploma or general equivalency diploma, a
37 minimum of three years of law-related experience under the
38 supervision of an attorney who has been an active member of the
39 State Bar of California for at least the preceding three years or who
40 has practiced in the federal courts of this state for at least the

preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks. This experience and training shall be completed no later than December 31, 2003.

(d) All paralegals shall be required to certify completion every three years of four hours of mandatory continuing legal education in legal ethics. All continuing legal education courses shall meet the requirements of Section 6070. Every two years, all paralegals shall be required to certify completion of four hours of mandatory continuing education in either general law or in a specialized area of law. Certification of these continuing education requirements shall be made with the paralegal's supervising attorney. The paralegal shall be responsible for keeping a record of the paralegal's certifications.

(e) A paralegal does not include a nonlawyer who provides legal services directly to members of the public or a legal document assistant or unlawful detainer assistant as defined in Section 6400.

(f) If a legal document assistant, as defined in subdivision (c) of Section 6400, has registered, on or before January 1, 2001, as required by law, a business name that includes the word "paralegal," that person may continue to use that business name until he or she is required to renew registration.

(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.

SEC. 16. Section 6450 of the Business and Professions Code, as amended by Section 2 of Chapter 311 of the Statutes of 2001, is amended to read:

6450. (a) "Paralegal" means a person who holds himself or herself out to be a paralegal, who is qualified by education, training, or work experience, ~~and~~ who either contracts with or is employed by an attorney, law firm, corporation, governmental agency, or other entity, and who performs substantial legal work under the direction and supervision of an active member of the State Bar of California, as defined in Section 6060, or an attorney practicing law in the federal courts of this state, that has been specifically delegated by the attorney to him or her. Tasks performed by a paralegal include, but are not limited to, case

1 planning, development, and management; legal research;
2 interviewing clients; fact gathering and retrieving information;
3 drafting and analyzing legal documents; collecting, compiling,
4 and utilizing technical information to make an independent
5 decision and recommendation to the supervising attorney; and
6 representing clients before a state or federal administrative agency
7 if that representation is permitted by statute, court rule, or
8 administrative rule or regulation.

9 (b) Notwithstanding subdivision (a), a paralegal shall not do
10 the following:

11 (1) Provide legal advice.

12 (2) Represent a client in court.

13 (3) Select, explain, draft, or recommend the use of any legal
14 document to or for any person other than the attorney who directs
15 and supervises the paralegal.

16 (4) Act as a runner or capper, as defined in Sections 6151 and
17 6152.

18 (5) Engage in conduct that constitutes the unlawful practice of
19 law.

20 (6) Contract with, or be employed by, a natural person other
21 than an attorney to perform paralegal services.

22 (7) In connection with providing paralegal services, induce a
23 person to make an investment, purchase a financial product or
24 service, or enter a transaction from which income or profit, or
25 both, purportedly may be derived.

26 (8) Establish the fees to charge a client for the services the
27 paralegal performs, which shall be established by the attorney who
28 supervises the paralegal's work. This paragraph does not apply to
29 fees charged by a paralegal in a contract to provide paralegal
30 services to an attorney, law firm, corporation, governmental
31 agency, or other entity as provided in subdivision (a).

32 (c) A paralegal shall possess at least one of the following:

33 (1) A certificate of completion of a paralegal program
34 approved by the American Bar Association.

35 (2) A certificate of completion of a paralegal program at, or a
36 degree from, a postsecondary institution that requires the
37 successful completion of a minimum of 24 semester, or equivalent,
38 units in law-related courses and that has been accredited by a
39 national or regional accrediting organization or approved by the
40 Bureau for Private Postsecondary and Vocational Education.

(3) A baccalaureate degree or an advanced degree in any subject, a minimum of one year of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks.

(4) A high school diploma or general equivalency diploma, a minimum of three years of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks. This experience and training shall be completed no later than December 31, 2003.

(d) All paralegals shall be required to certify completion every three years of four hours of mandatory continuing legal education in legal ethics. All continuing legal education courses shall meet the requirements of Section 6070. Every two years, all paralegals shall be required to certify completion of four hours of mandatory continuing education in either general law or in a specialized area of law. Certification of these continuing education requirements shall be made with the paralegal's supervising attorney. The paralegal shall be responsible for keeping a record of the paralegal's certifications.

(e) A paralegal does not include a nonlawyer who provides legal services directly to members of the public, or a legal document assistant or unlawful detainer assistant as defined in Section 6400, unless the person is a person described in subdivision (a).

(f) This section shall become operative on January 1, 2004.

SEC. 17. Section 7685 of the Business and Professions Code is amended to read:

7685. (a) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive

1 equipment. All services included in this price or prices shall be
2 enumerated.

3 (b) The list shall also include a statement indicating that the
4 survivor of the deceased who is handling the funeral arrangements,
5 or the responsible party, is entitled to receive, prior to the drafting
6 of any contract, a copy of any preneed agreement that has been
7 signed and paid for, in full or in part, by or on behalf of the
8 deceased, and that is in the possession of the funeral establishment.

9 (c) The funeral director shall also provide a statement on that
10 list that gives the price range for all caskets offered for sale. The
11 funeral director shall also provide a written statement or list that,
12 at a minimum, specifically identifies a particular casket or caskets
13 by price and by thickness of metal, or type of wood, or other
14 construction, interior and color, in addition to other casket
15 identification requirements under Title 16, Code of Federal
16 Regulations, Part 453 and any subsequent version of this
17 regulation, when a request for specific information on a casket or
18 caskets is made in person by any individual. Prices of caskets and
19 other identifying features such as thickness of metal, or type of
20 wood, or other construction, interior and color, in addition to other
21 casket identification requirements required to be given over the
22 telephone by Title 16, Code of Federal Regulations, Part 453 and
23 any subsequent version of this regulation, shall be provided over
24 the telephone, if requested.

25 SEC. 18. Section 8008 of the Business and Professions Code
26 is amended to read:

27 8008. The board has the following powers and duties:

28 (a) To adopt a seal.

29 (b) By affirmative vote of at least three members of the board,
30 to suspend, revoke, or impose any other disciplinary action against
31 a certificate, for any cause specified in this chapter.

32 (c) To charge and collect all fees as provided for in this chapter.

33 (d) To require the renewal of all certificates.

34 (e) To issue subpoenas, to administer oaths, and to take
35 testimony concerning any matter within the jurisdiction of the
36 board.

37 (f) To investigate the actions of any licensee, upon receipt of a
38 verified complaint in writing from any person, for alleged acts or
39 omissions constituting grounds for disciplinary action under the
40 chapter.

1 (g) To administer the Transcript Reimbursement Fund
2 described in Section 8030.2.

3 SEC. 19. Section 8020 of the Business and Professions Code,
4 as amended by Section 3 of Chapter 616 of the Statutes of 2001,
5 is amended to read:

6 8020. Any person over the age of 18 years, who has not
7 committed any acts or crimes constituting grounds for the denial
8 of licensure under Sections 480, 8025, and 8025.1, who has a high
9 school education or its equivalent as determined by the board, and
10 who has satisfactorily passed an examination under any
11 regulations that the board may prescribe, shall be entitled to a
12 certificate and shall be styled and known as a certified shorthand
13 reporter. No person shall be admitted to the examination without
14 first presenting satisfactory evidence to the board that, within the
15 five years immediately preceding the date of application for a
16 certificate, the applicant has obtained one of the following:

17 (a) One year of experience in making verbatim records of
18 depositions, arbitrations, hearings, or judicial or related
19 proceedings by means of written symbols or abbreviations in
20 shorthand or machine shorthand writing and transcribing these
21 records.

22 (b) A verified certificate of satisfactory completion of a
23 prescribed course of study in a recognized court reporting school
24 or a certificate from the school that evidences an equivalent
25 proficiency and the ability to make a verbatim record of material
26 dictated in accordance with regulations adopted by the board
27 contained in Title 16 of the California Code of Regulations.

28 (c) A certificate from the National Court Reporters Association
29 demonstrating proficiency in machine shorthand reporting.

30 (d) A passing grade on the California state hearing reporters
31 examination.

32 (e) A valid certified shorthand reporters certificate or license to
33 practice shorthand reporting issued by a state other than California
34 whose requirements and licensing examination are substantially
35 the same as those in California.

36 (f) This section shall remain in effect only until January 1,
37 2004, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 1, 2004, deletes or extends that date.

SEC. 20. Section 8020 of the Business and Professions Code, as added by Section 4 of Chapter 616 of the Statutes of 2001, is amended to read:

8020. Any person over the age of 18 years, who has not committed any acts or crimes constituting grounds for the denial of licensure under Sections 480, 8025, and 8025.1, who has a high school education or its equivalent as determined by the board, and who has satisfactorily passed an examination under any regulations that the board may prescribe, shall be entitled to a certificate and shall be styled and known as a certified shorthand reporter. No person shall be admitted to the examination without first presenting satisfactory evidence to the board that, within the three years immediately preceding the date of application for a certificate, the applicant has obtained one of the following:

(a) One year of experience in making verbatim records of depositions, arbitrations, hearings, or judicial or related proceedings by means of written symbols or abbreviations in shorthand or machine shorthand writing and transcribing these records.

(b) A verified certificate of satisfactory completion of a prescribed course of study in a recognized court reporting school or a certificate from the school that evidences equivalent proficiency and the ability to make a verbatim record of material dictated in accordance with regulations adopted by the board contained in Title 16 of the California Code of Regulations.

(c) A certificate from the National Court Reporters Association demonstrating proficiency in machine shorthand writing.

(d) A passing grade on the California state hearing reporters examination.

(e) A valid certified shorthand reporters certificate or license to practice shorthand reporting issued by a state other than California whose requirements and licensing examination are substantially the same as those in California.

(f) This section shall become operative on January 1, 2004.

SEC. 21. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, “school” means a court reporter training program or an institution that provides a course of instruction approved by the board, ~~and is approved by the~~ Bureau for Private Postsecondary and Vocational Education, is a

1 public school in this state, or is accredited by the Western
2 Association of Schools and Colleges.

3 (b) A court reporting school shall be primarily organized to
4 train students for the practice of shorthand reporting, as defined in
5 Sections 8016 and 8017. Its educational program shall be on the
6 postsecondary or collegiate level. It shall be legally organized and
7 authorized to conduct its program under all applicable laws of the
8 state, and shall conform to and offer all components of the
9 minimum prescribed course of study established by the board. Its
10 records shall be kept and shall be maintained in a manner to render
11 them safe from theft, fire, or other loss. The records shall indicate
12 positive daily and clock-hour attendance of each student for all
13 classes, apprenticeship and graduation reports, high school
14 transcripts or the equivalent or self-certification of high school
15 graduation or the equivalent, transcripts of other education, and
16 student progress to date, including all progress and counseling
17 reports.

18 (c) Any school intending to offer a program in court reporting
19 shall notify the board within 30 days of the date on which it
20 provides notice to, or seeks approval from, the California
21 Department of Education, the Bureau for Private Postsecondary
22 and Vocational Education, the Chancellor's Office of the
23 California Community Colleges, or the Western Association of
24 Schools and Colleges, whichever is applicable. The board shall
25 review the proposed curriculum and provide the school tentative
26 approval, or notice of denial, within 60 days of receipt of the
27 notice. The school shall apply for provisional recognition pursuant
28 to subdivision (d) within no more than one year from the date it
29 begins offering court reporting classes.

30 (d) The board may grant provisional recognition to a new court
31 reporting school upon satisfactory evidence that it has met all of
32 the provisions of subdivision (b) and this subdivision. Recognition
33 may be granted by the board to a provisionally recognized school
34 after it has been in continuous operation for a period of no less than
35 three consecutive years from the date provisional recognition was
36 granted, during which period the school shall provide satisfactory
37 evidence that at least one person has successfully completed the
38 entire course of study established by the board and complied with
39 the provisions of Section 8020, and has been issued a certificate to
40 practice shorthand reporting as defined in Sections 8016 and 8017.



The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two, one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees, including, but not limited to, those qualified by each recognized or provisionally recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(j) Inspections and investigations shall be conducted by the board as necessary to carry out this section, including, but not limited to, unannounced site visits.

1 (k) All recognized and provisionally recognized schools shall
2 print in their school or course catalog the name, address, and
3 telephone number of the board. At a minimum, the information
4 shall be in 8-point bold type and include the following statement:

5
6 “IN ORDER FOR A PERSON TO QUALIFY FROM A
7 SCHOOL TO TAKE THE STATE LICENSING
8 EXAMINATION, THE PERSON SHALL COMPLETE A
9 PROGRAM AT A RECOGNIZED SCHOOL. FOR
10 INFORMATION CONCERNING THE MINIMUM
11 REQUIREMENTS THAT A COURT REPORTING PROGRAM
12 MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT:
13 THE COURT REPORTERS BOARD OF CALIFORNIA;
14 (ADDRESS); (TELEPHONE NUMBER).”

15
16 (l) Each court reporting school shall file with the board, not
17 later than June 30 of each year, a current school catalog that shows
18 all course offerings and staff, and for private schools, the owner,
19 except that where there have been no changes to the catalog within
20 the previous year, no catalog need be sent. In addition, each school
21 shall also file with the board a statement certifying whether the
22 school is in compliance with all statutes and the rules and
23 regulations of the board, signed by the responsible court reporting
24 program manager.

25 (m) A school offering court reporting may not make any
26 written or verbal claims of employment opportunities or potential
27 earnings unless those claims are based on verified data and reflect
28 current employment conditions.

29 (n) If a school offers a course of instruction that exceeds the
30 board’s minimum requirements, the school shall disclose orally
31 and in writing the board’s minimum requirements and how the
32 course of instruction differs from those criteria. The school shall
33 make this disclosure before a prospective student executes an
34 agreement obligating that person to pay any money to the school
35 for the course of instruction. The school shall also make this
36 disclosure to all students enrolled on January 1, 2002.

37 (o) Private schools shall provide each prospective student with
38 all of the following and have the prospective student sign a
39 document that shall become part of that individual’s permanent
40 record, acknowledging receipt of each item:



1 (1) A student consumer information brochure published by the
2 board.

3 (2) A list of the school's graduation requirements, including the
4 number of tests, the pass point of each test, the speed of each test,
5 and the type of test, such as jury charge or literary.

6 (3) A list of requirements to qualify for the state certified
7 shorthand reporter licensing examination, including the number of
8 tests, the pass point of each test, the speed of each test, and the type
9 of test, such as jury charge or literary, if different than those
10 requirements listed in paragraph (2).

11 (4) A copy of the school's board-approved benchmarks for
12 satisfactory progress as identified in subdivision (u).

13 (5) A report showing the number of students from the school
14 who qualified for each of the certified shorthand reporter licensing
15 examinations within the preceding two years, the number of those
16 students that passed each examination, the time, as of the date of
17 qualification, that each student was enrolled in court reporting
18 school, and the placement rate for all students that passed each
19 examination.

20 (6) On and after January 1, 2005, the school shall also provide
21 to prospective students the number of hours each currently
22 enrolled student who has qualified to take the next licensing test,
23 exclusive of transfer students, has attended court reporting classes.

24 (p) Public schools shall provide the information in paragraphs
25 (1) to (6) of *subdivision (o)*, inclusive, to each new student the first
26 day he or she attends theory or machine speed class, if it was not
27 provided previously.

28 (q) Each enrolled student shall be provided written notification
29 of any change in qualification or graduation requirements that is
30 being implemented due to the requirements of any one of the
31 school's oversight agencies. This notice shall be provided to each
32 affected student at least 30 days before the effective date of the
33 change and shall state the new requirement and the name, address,
34 and telephone number of the agency that is requiring it of the
35 school. Each student shall initial and date a document
36 acknowledging receipt of that information and that document, or
37 a copy thereof, shall be made part of the student's permanent file.

38 (r) Schools shall make available a comprehensive final
39 examination in each academic subject to any student desiring to
40 challenge an academic class in order to obtain credit towards

1 certification for the state licensing examination. The points
2 required to pass a challenge examination shall not be higher than
3 the minimum points required of other students completing the
4 academic class.

5 (s) An individual serving as a teacher, instructor, or reader shall
6 meet the qualifications specified by regulation for his or her
7 position.

8 (t) Each school shall provide a substitute teacher or instructor
9 for any class for which the teacher or instructor is absent for two
10 consecutive days or more.

11 (u) The board has the authority to approve or disapprove
12 benchmarks for satisfactory progress which each school shall
13 develop for its court reporting program. Schools shall use only
14 board-approved benchmarks to comply with the provisions of
15 paragraph (4) of subdivision (o) and subdivision (u).

16 (v) Each school shall counsel each student a minimum of one
17 time within each 12-month period to identify the level of
18 attendance and progress, and the prognosis for completing the
19 requirements to become eligible to sit for the state licensing
20 examination. If the student has not progressed in accordance with
21 the board-approved benchmarks for that school, the student shall
22 be counseled a minimum of one additional time within that same
23 12-month period.

24 (w) The school shall provide to the board, for each student
25 qualifying through the school as eligible to sit for the state
26 licensing examination, the number of hours the student attended
27 court reporting classes, both academic and machine speed classes,
28 including theory.

29 (x) The pass rate of first-time exam takers for each school
30 offering court reporting shall meet or exceed the average pass rate
31 of all first-time test takers for a majority of examinations given for
32 the preceding three years. Failure to do so shall require the board
33 to conduct a review of the program. In addition, the board may
34 place the school on probation and may withdraw recognition if the
35 school continues to place below the above described standard on
36 the two exams that follow the three-year period.

37 (y) A school shall not require more than one 10 minute
38 qualifying examination, as defined in the regulations of the board,
39 for a student to be eligible to sit for the state certification
40 examination.

1 (z) A school shall provide the board the actual number of hours
2 of attendance for each applicant the school qualifies for the state
3 licensing examination.

4 (aa) The board shall, by December 1, 2001, do the following by
5 regulation as necessary:

6 (1) Establish the format that shall be used by schools to report
7 tracking of all attendance hours and actual timeframes for
8 completed coursework.

9 (2) Require schools to provide a minimum of 10 hours of live
10 dictation class each school week for every full-time student.

11 (3) Require schools to provide students with the opportunity to
12 read back from their stenographic notes a minimum of one time
13 each day to his or her instructor.

14 (4) Require schools to provide students with the opportunity to
15 practice with a school-approved speed-building tape, or other
16 assigned material, a minimum of one hour per day after school
17 hours as a homework assignment and provide the notes from this
18 tape to their instructor the following day for review.

19 (5) Develop standardization of policies on the use and
20 administration of qualifier examinations by schools.

21 (6) Define qualifier exam as follows: the qualifier exam shall
22 consist of 4-voice testimony of 10-minute duration at 200 wpm,
23 graded at 97.5 percent accuracy, and in accordance with the
24 guidelines followed by the board. Schools shall be required to date
25 and number each qualifier and announce the date and number to
26 the students at the time of administering the qualifier. All qualifiers
27 shall indicate the actual dictation time of the test and the school
28 shall catalog and maintain the qualifier for a period of not less than
29 three years for the purpose of inspection by the board.

30 (7) Require schools to develop a program to provide students
31 with the opportunity to interact with professional court reporters
32 to provide skill support, mentoring, or counseling which they can
33 document at least quarterly.

34 (8) Define qualifications and educational requirements
35 required of instructors and readers that read test material and
36 qualifiers.

37 (bb) The board shall adopt regulations to implement the
38 requirements of this section not later than September 1, 2002.

39 (cc) The board may recover costs for any additional expenses
40 incurred under the enactment amending this section in the

1 2001–02 Regular Session of the Legislature pursuant to its fee
2 authority in Section 8031.

3 SEC. 22. Section 8538 of the Business and Professions Code
4 is amended to read:

5 8538. (a) A registered structural pest control company shall
6 provide the owner, or owner's agent, and tenant of the premises for
7 which the work is to be done with clear written notice which
8 contains the following statements and information using words
9 with common and everyday meaning:

10 (1) The pest to be controlled.

11 (2) The pesticide or pesticides proposed to be used, and the
12 active ingredient or ingredients.

13 (3) "State law requires that you be given the following
14 information: CAUTION—PESTICIDES ARE TOXIC
15 CHEMICALS. Structural Pest Control Companies are registered
16 and regulated by the Structural Pest Control Board, and apply
17 pesticides which are registered and approved for use by the
18 California Department of Pesticide Regulation and the United
19 States Environmental Protection Agency. Registration is granted
20 when the state finds that based on existing scientific evidence there
21 are no appreciable risks if proper use conditions are followed or
22 that the risks are outweighed by the benefits. The degree of risk
23 depends upon the degree of exposure, so exposure should be
24 minimized."

25 "If within 24 hours following application you experience
26 symptoms similar to common seasonal illness comparable to the
27 flu, contact your physician or poison control center (telephone
28 number) and your pest control company immediately." (This
29 statement shall be modified to include any other symptoms of
30 overexposure which are not typical of influenza.)

31 "For further information, contact any of the following: Your
32 Pest Control Company (telephone number); for Health
33 Questions—the County Health Department (telephone number);
34 for Application Information—the County Agricultural
35 Commissioner (telephone number) and for Regulatory
36 Information—the Structural Pest Control Board (telephone
37 number and address)."

38 (4) If a contract for periodic pest control has been executed, the
39 frequency with which the treatment is to be done.



1 (b) In the case of Branch 1 applications, the notice,~~as~~
2 prescribed by subdivision (a), shall be provided at least 48 hours
3 prior to application unless fumigation follows inspection by less
4 than 48 hours.

5 In the case of Branch 2 or Branch 3 registered company
6 applications, the notice,~~as~~ prescribed by subdivision (a) shall be
7 provided no later than prior to application.

8 In either case, the notice shall be given to the owner, or owner's
9 agent, and tenant, if there is a tenant, in at least one of the following
10 ways:

11 (1) First-class mail.

12 (2) Posting in a conspicuous place on the real property.

13 (3) Personal delivery.

14 If the building is commercial or industrial, a notice shall be
15 posted in a conspicuous place, unless the owner or owner's agent
16 objects, in addition to any other notification required by this
17 section.

18 The notice shall only be required to be provided at the time of
19 the initial treatment if a contract for periodic service has been
20 executed. If the pesticide to be used is changed, another notice
21 shall be required to be provided in the manner previously set forth
22 herein.

23 (c) Any person or licensee who, or registered company which,
24 violates any provision of this section is guilty of a misdemeanor
25 and is punishable as set forth in Section 8553.

26 SEC. 23. Section 8560 of the Business and Professions Code
27 is amended to read:

28 8560. (a) Licenses issued to operators, field representatives,
29 or applicators shall be limited to the branch or branches of pest
30 control for which the applicant has qualified by application and
31 examination.

32 For the purpose of delimiting the type and character of work
33 authorized by the various branch licenses, the practice of pest
34 control is classified into the following branches:

35 Branch 1. Fumigation. The practice relating to the control of
36 household and wood destroying pests or organisms by fumigation
37 with poisonous or lethal gases.

38 Branch 2. General pest. The practice relating to the control of
39 household pests, excluding fumigation with poisonous or lethal
40 gases.

1 Branch 3. Termite. The practice relating to the control of
2 wood destroying pests or organisms by the use of insecticides, or
3 structural repairs and corrections, excluding fumigation with
4 poisonous or lethal gases.

5 (b) The board may issue a license for a combination of two or
6 more branches for which an applicant qualifies under the
7 provisions of this chapter, and the combination license shall be
8 considered one license.

9 (c) Unless otherwise authorized by the board, all written
10 examinations shall be in ink in books supplied by the board. All
11 examination papers shall be kept for a period of one year, upon the
12 expiration of which these papers may be destroyed on order of the
13 board. Each applicant for license as an operator or a field
14 representative shall be designated by a number instead of by name,
15 and the identity thereof shall not be disclosed until the examination
16 papers are graded. No person shall be admitted to the examination
17 room except members of the board, the examining personnel, and
18 the applicants for license.

19 (d) The board shall make rules and regulations for the purpose
20 of securing fair, impartial, and proper examinations.

21 (e) Licensees may be licensed in other branches upon
22 complying with the requirements for qualification and by
23 examination in those other branches. No failure of the licensee to
24 pass examination in the other branch or branches shall have any
25 effect on existing licenses.

26 (f) The examination shall be in each of the subjects specified in
27 the branch or branches relating to the respective applications.
28 ~~License~~ A license according to the applications shall be granted to
29 any applicant who shall make a general average of not less than 70
30 percent on each of the subjects of the branch or branches.

31 SEC. 24. Section 10153.6 of the Business and Professions
32 Code is amended to read:

33 10153.6. All real estate broker licenses issued by the
34 commissioner shall be for a period of four years.

35 Applicants shall qualify in the appropriate examination and
36 satisfy all other requirements prior to issuance of the license.

37 The four-year license may be renewed upon filing the required
38 application and fee, and complying with the provisions of Article
39 2.5 (commencing with Section 10170) ~~and Section 10236.7.~~

SEC. 25. Section 10176.1 of the Business and Professions Code is amended to read:

10176.1. (a) (1) Whenever the commissioner takes any enforcement or disciplinary action against a licensee, and the enforcement or disciplinary action is related to escrow services provided pursuant to paragraph (4) of subdivision (a) of Section 17006 of the Financial Code, upon the action becoming final the commissioner shall notify the Insurance Commissioner and the Commissioner of Corporations of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the licensee ~~seek~~ *seeks* or obtains employment with entities regulated by the departments.

(2) The commissioner shall provide the Insurance Commissioner and the Commissioner of Corporations, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Insurance Commissioner or the Commissioner of Corporations, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Insurance Commissioner or the Commissioner of Corporations shall not be made public pursuant to this section. Notwithstanding any other provision of law, the disclosure of any underlying factual material to the Insurance Commissioner or the Commissioner of Corporations shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the Web site maintained by the Department of Real Estate, a database of its licensees, including those who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 17423.1 of the Financial Code and Section 12414.31 of the Insurance Code and required to be maintained on the Web sites of the Department of Corporations and the Department of Insurance, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Insurance Commissioner and the Commissioner of Corporations.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of California, the Department of Real Estate, the Real Estate Commissioner, any other state agency, or any officer, agent, employee, consultant, or contractor of the state, for the release of any false or unauthorized information pursuant to this section, unless the release of that information was done with knowledge and malice, or for the failure to release any information pursuant to this section.

SEC. 26. Section 13405 of the Business and Professions Code is amended to read:

13405. (a) The Department of Food and Agriculture may grant a variance from the specifications of this chapter for developmental engine fuels if all of the following conditions apply:

~~(a)~~

(1) Variances may only be granted to provide for the development of information under controlled test conditions to assist in the creation of chemical and performance standards for engine fuels.

~~(b)~~

(2) Developmental engine fuel shall only be distributed or sold to fleet-type centrally fueled vehicle and equipment users.

~~(c)~~

(3) The applicant shall warn all parties in writing of any potential risk associated with the use of the developmental engine fuel.

~~(d)~~

(4) The applicant shall report information when and as the department may prescribe in order for the department to monitor the progress of the developmental engine fuel technology evaluation.

(b) The applicant for a variance shall comply with all other requirements, terms, and conditions that are contained in regulations adopted by the department to further the purposes and administration of this section.

(c) (1) In granting a variance, the department expresses no opinion as to whether an applicant's developmental engine fuel will perform as represented by the applicant. ~~Nor does the department express~~ *nor* any opinion to the extent, if at all, that the developmental engine fuel may be safely and effectively used as

1 a substitute for other spark-ignition or compression-ignition
2 engine fuels without incident. ~~Damages~~

3 (2) *Damages* caused by the sale, delivery, storage, handling,
4 and usage of the developmental engine fuel shall be addressed in
5 accordance with contractual provisions negotiated and agreed
6 upon by the applicant and the user.

7 (d) The department may withdraw a variance if the applicant
8 does not adhere to the conditions required to obtain the variance
9 or if the department recognizes a high probability of equipment
10 harm with the continued use of the developmental engine fuel or
11 to protect public safety.

12 SEC. 27. Section 19455 of the Business and Professions
13 Code, as added by Chapter 198 of the Statutes of 2001, is amended
14 to read:

15 19455. (a) The Legislature finds and declares that Section
16 923 of the Labor Code recognizes that it is necessary that the
17 individual worker have full freedom of association,
18 self-organization, and designation of representatives of his or her
19 own choosing, to negotiate the terms and conditions of his or her
20 employment, and that he or she shall be free from the interference,
21 restraint, or coercion of employers of labor, or their agents, in the
22 designation of such representatives or in self-organization or in
23 other concerted activities for the purpose of collective bargaining.

24 (b) The Legislature finds that the National Labor Relations
25 Board has formally declined to assert jurisdiction over horse
26 racing because of extensive state control over the industry, the
27 dominant pattern of sporadic short-term employment which poses
28 problems for the effective enforcement of the National Labor
29 Relations Act, and a unique and special relationship that has
30 developed between the states and the industry.

31 (c) It is the intent of the Legislature to establish an orderly
32 procedure for backstretch employees to exercise their statutory
33 rights to organize a labor union, in order to reduce the prospect of
34 any strikes, disruptions, or economic action that would interfere
35 with the operation of horse racing meetings in California.

36 (d) Except as provided in subdivision (e), the board shall
37 oversee the conduct of a union recognition procedure for
38 backstretch employees under the following conditions:

39 (1) Employees shall have the right to join, or refuse to join, a
40 labor organization for purposes of collective bargaining and

1 mutual aid and protection. Existing state-recognized organizations
2 of trainers or horsemen established pursuant to the Horse Racing
3 Law shall not use funds derived or distributed from parimutuel
4 wagering pursuant to state law to advocate or advance any position
5 with respect to unionization of employees. Individual trainers and
6 horsemen, and their agents, shall not coerce or threaten any
7 employee of any trainer or horseman because of the exercise of
8 rights pursuant to this article. No employee shall be discharged or
9 discriminated against for expressing any opinion concerning the
10 selection of a labor union or collective bargaining agent for
11 employees under this article. No trainer or horseman, or group of
12 trainers or horsemen, shall dominate or interfere with the
13 formation or administration of any labor organization established
14 under this article nor contribute financial or other support to it.

15 (2) The labor union and its representatives shall not coerce or
16 threaten any employee of any trainer or horseman because of the
17 exercise of rights pursuant to this article.

18 (3) Notwithstanding any other provision of law, within 30 days
19 of a request by a bona fide labor organization representing workers
20 in the horse racing industry in California, accompanied by a
21 petition of 125 licensed backstretch workers, the board shall
22 provide the labor organization with a list of all backstretch workers
23 including the type of licenses they hold, their employer, the
24 location at which they are employed, and their address and
25 telephone number. The board may require of any trainer licensee
26 information in the licensee's possession necessary to comply with
27 this requirement. The labor union shall use this list solely for the
28 purposes of this article, and maintain it in a manner, as the board
29 may require, to preserve the integrity of horse racing. The board
30 may impose an appropriate penalty for any other use.

31 (4) Every licensed trainer who employs backstretch employees
32 shall file with the board, not later than February 1, 2002, and,
33 within seven days of the commencement of each race meeting
34 thereafter, a complete and accurate list of the names of its
35 backstretch workers. In addition, every trainer shall file with the
36 board a complete, accurate, and updated list within seven days of
37 any changes which occur to the most recently filed list. The lists
38 described in this section, together with any updates thereto, shall
39 be provided within 72 hours after receipt by the board, to any bona
40 fide labor organization which has requested copies thereof and

1 submitted a petition containing the names of 125 backstretch
2 workers pursuant to paragraph (3). Any such request need only be
3 made one time and the board shall thereafter be required to provide
4 these lists and any updates thereto in accordance with the
5 provisions of this section so long as a bona fide labor organization
6 seeks to represent licensed backstretch workers.

7 (5) The labor union may obtain board recognition as the
8 exclusive bargaining agent for employees of employers pursuant
9 to the provisions and procedures described in paragraph (8).

10 (6) For the purposes of this article:

11 (A) “Backstretch employee” or “backstretch worker” means
12 a person licensed by the board pursuant to subdivision (c) of
13 Section 1481 of Division 4 of Title 4 of the California Code of
14 Regulations.

15 (B) “Multiemployer bargaining unit” means any bargaining
16 unit created and recognized pursuant to the terms of clause (iii) of
17 subparagraph (A) of paragraph (8).

18 (C) “Approved election unit” means any election unit created
19 and recognized pursuant to paragraph (7).

20 (7) There are four election units created and recognized
21 pursuant to this section, as follows:

22 (A) Backstretch employees working for trainers of
23 thoroughbred horses stabled at licensed racetracks, including fairs
24 and approved auxiliary training facilities in the combined central
25 and southern zones.

26 (B) Backstretch employees working for trainers of
27 thoroughbred horses stabled at licensed racetracks, including fairs
28 and approved auxiliary training facilities in the northern zone.

29 (C) Backstretch employees working for trainers of quarter
30 horses stabled at licensed racetracks and approved auxiliary
31 training facilities in the combined central and southern zones.

32 (D) Backstretch employees working for trainers of harness
33 horses stabled at licensed racetracks, including fairs and approved
34 auxiliary training facilities in the northern zone.

35 The board shall use the California State Mediation and
36 Conciliation Service for all appropriate purposes of this act,
37 including operations related to the conduct of recognition
38 procedures and elections.

39 (8) (A) With respect to backstretch workers, a labor
40 organization seeking recognition as the collective bargaining

1 agent for these workers shall collect signed cards indicating
2 individual worker's intent to be represented by that organization
3 for collective bargaining purposes and submit those cards to the
4 California State Mediation and Conciliation Service for review
5 and validation. When the labor organization is in receipt of cards
6 signed by workers equaling at least 30 percent of the employees
7 in an election unit described in paragraph (4), the California State
8 Mediation and Conciliation Service shall conduct a secret ballot
9 election with respect to the election unit as soon as is practicable
10 thereafter, but in no event more than 30 calendar days after
11 validation by the service of the cards.

12 Those backstretch employees entitled to vote in the election
13 shall be those who appear on the licensed trainer's most recent list
14 described in paragraph (3). However, each employer may update
15 his or her list not more than 72 hours prior to the election. If it is
16 determined by the stewards pursuant to the provisions in paragraph
17 (11), that the employer filed an inaccurate or erroneous list with
18 a willful intention to manipulate the results of an election, and that
19 the inaccuracy or error may have affected the outcome of the
20 election, the stewards shall decree that the employer lost the
21 election, regardless of the actual outcome thereof, and the stewards
22 shall issue an order to the trainer to negotiate with the union.

23 (i) Any election shall be conducted by the California State
24 Mediation and Conciliation Service under rules established by the
25 service consistent with standard practice. The rules shall be
26 established no more than 60 days after the effective date of this
27 section, shall be made available to the bona fide labor union and
28 employers of backstretch employees, and shall be exempt from the
29 Administrative Procedure Act. The rules shall provide for a secret
30 ballot system for the conduct of the election pursuant to which
31 ballots cast by backstretch employees of individual employers
32 shall be cast by insertion into envelopes appropriately identified
33 with respect to each employer. The envelopes shall be collected
34 and tabulated in secret by the service, subject to observation by one
35 representative designated by the bona fide labor organization and
36 one representative designated by the organization representing
37 trainers pursuant to subdivision (a) of Section 19613.2. Upon
38 completion of the tabulation, the service shall issue a report
39 certifying those employers, the majority of whose employees who
40 participated in the election voted in favor of representation by the



1 union. Those employers so certified shall be required to bargain
2 with the labor union pursuant to this subdivision. All other
3 employers shall not be required to negotiate with the union and
4 there shall not be another election with respect to those employers
5 for at least one year from the date of the prior election. The service
6 shall not make public the numerical tabulation of votes by
7 employer.

8 (ii) Protests over challenged ballots shall be resolved by the
9 service in a consolidated hearing commencing no later than three
10 business days after the election.

11 (iii) Within 45 days of the certification of the results of the
12 election by the service to the board, those trainers who are required
13 to bargain pursuant to this subparagraph may form multiple
14 employer bargaining units in accordance with the provisions of
15 this subdivision. Further, the organization representing trainers
16 pursuant to subdivision (a) of Section 19613.2 shall conduct a
17 meeting regarding the formulation of multiple employer
18 bargaining units within five days of the certification of the results
19 of the election. For licensed trainers described in subparagraph (A)
20 of paragraph (7), the minimum number of backstretch employees
21 employed by licensed trainers comprising the multiple employer
22 bargaining unit as of the date of the election shall be the lesser of
23 100 employees or 10 percent of the total employees subject to
24 bargaining. For licensed trainers described in subparagraphs (B),
25 (C), and (D), of paragraph (7), the minimum number of
26 backstretch employees employed by licensed trainers comprising
27 the multiple employer bargaining unit as of the date of the election
28 shall be the lesser of 50 employees or 10 percent of the total
29 employees subject to bargaining. The minimum number of
30 backstretch employees employed by licensed trainers in order to
31 qualify as a multiple employer bargaining unit pursuant to this
32 subdivision may, with the consent of the recognized labor union,
33 be reduced. On or before the 45th day following the certification
34 of the results of the election, each representative of a multiple
35 employer bargaining unit formed pursuant to this subdivision shall
36 notify the board and the exclusive collective bargaining agent, in
37 writing, that a unit has been formed, disclose the names of the
38 licensed trainers which comprise the unit, and indicate the number
39 and names of the backstretch employees which are employed by
40 the licensed trainers comprising the unit. Except to join another

1 multiple employer bargaining unit, without the consent of the bona
2 fide labor organization, a trainer who has elected to join a multiple
3 employer bargaining unit may not thereafter elect to resign from
4 the unit except within a 30-day period prior to the date of the
5 expiration of the collective bargaining agreement resulting from
6 the negotiations. The employees of a licensed trainer who has
7 resigned from a multiple employer bargaining unit and has not
8 joined another unit, shall not be entitled to petition to decertify the
9 union for a period of one year from the date of the expiration of the
10 collective bargaining agreement which resulted from the
11 negotiation between the union and the multiple employer
12 bargaining unit of which he or she was formerly a member and
13 which was in effect at the time of the trainer's resignation. Upon
14 completion and certification of the election results the union shall
15 be recognized as the exclusive collective bargaining agent for
16 those workers whose employers are required to bargain, and the
17 executive director of the board shall issue an order to affected
18 employers to begin good faith negotiations for approval of
19 employment agreements pursuant to the procedures set forth in
20 this section.

21 (B) If an individual employer of backstretch workers declines
22 to be represented in the multiemployer collective bargaining
23 procedure described in clause (iii), the board shall issue an order
24 to begin good faith negotiations for employment agreements on an
25 individual employer basis. The board may provide mediation and
26 conciliation services upon request of the parties at any time. If an
27 employer is required under this subparagraph to collectively
28 bargain with the union, and the parties do not reach an agreement
29 within 90 days of the order, the board shall require the parties to
30 participate in mandatory mediation and conciliation services for a
31 period of 30 days. If no agreement results from this mediation,
32 either or both parties may declare an impasse. Upon a party's
33 declaration of an impasse, the executive director of the board shall
34 appoint an arbitrator in the manner described in paragraph (11) to
35 determine the issues and issue a final and binding order
36 establishing the terms of a collective bargaining agreement.

37 (9) No labor agreement under this article shall apply to any
38 trainer or horseman with respect to employment associated with
39 fair meetings prior to January 1, 2003. After this date, employees
40 shall be added by accretion into an existing contract where



1 applicable. For racing meetings conducted in the central and
 2 southern zones during the first three months of any calendar year
 3 and for fair racing meetings, this section shall not apply to trainers
 4 who normally reside and work outside of California and who are
 5 engaged in racing in this state for a limited period of time, not
 6 exceeding 90 racing days in any calendar year. For ~~all~~ any other
 7 ~~rac~~ racing meeting conducted during any calendar year, this
 8 section shall not apply to trainers, backstretch workers, or both
 9 who normally reside and work outside of California and ~~without~~
 10 ~~who~~ are engaged in racing in this state for a limited period of time,
 11 not exceeding 50 racing days in any calendar year.

12 (10) Except as provided in subparagraph (A) of paragraph (8),
 13 at any time subsequent to the expiration of an agreement under
 14 paragraph (8), when the agreement is not in effect, the board may
 15 recognize a majority interest, obtained during this period in the
 16 same manner as union recognition of employees, within a multiple
 17 employer bargaining unit who no longer desire to be represented
 18 by the union, and withdraw the recognition granted pursuant to this
 19 section from that union. An employer may inform his or her
 20 employees that a process for decertification exists and direct them
 21 to the board for information. However any card, signature, vote,
 22 or other indicator obtained for this purpose by means of coercion
 23 or threat or with the assistance or inducement of any employer
 24 shall be invalid.

25 (11) Disputes, other than disputes concerning the operation and
 26 application of ongoing contracts, disputes subject to binding
 27 interest arbitration pursuant to subparagraph (B) of paragraph (8),
 28 and economic disputes arising in the context of multiemployer
 29 bargaining pursuant to subparagraph (A) of paragraph (8), but
 30 including disputes concerning the rights established in paragraphs
 31 (1) and (2), upon complaint shall be adjudicated by the stewards.
 32 The stewards shall have the authority to order any remedy,
 33 including reinstatement of employment, injunctive relief,
 34 damages, and attorney's fees. An investigation and adjudication
 35 by the stewards shall be concluded as expeditiously as possible,
 36 consistent with applicable standards of due process. In addition,
 37 the board may require the parties to submit the issue to binding
 38 arbitration subject to judicial review in the same manner as
 39 decisions of the board. Disputes subject to this paragraph include



1 disputes involving any backstretch employee or group of
2 employees, and any trainer or group of trainers.

3 (12) Upon submission of a complaint to binding arbitration
4 under any provision of this article, the executive director of the
5 board shall select an arbitrator from a panel of professional
6 arbitrators with expertise in labor negotiations selected by the
7 California State Mediation and Conciliation Service or from a
8 panel identified in collective bargaining agreements between labor
9 organizations and employers in the horse racing industry in
10 California, or both. The arbitrators selected by the service or
11 identified in collective bargaining agreements shall be available to
12 resolve the matter expeditiously. The arbitrator selected by the
13 executive director shall have the authority to convene an
14 immediate hearing and require the parties to exercise all due
15 diligence in promptly attending to the issue in controversy. In all
16 matters pertaining to the rights established by this article, an
17 arbitrator shall have the authority to fashion an appropriate
18 remedy, including reinstatement of employment, injunctive relief,
19 damages, and attorney's fees, and issuance of a make-whole
20 remedy in the event of a persistent failure of a party to bargain in
21 good faith. The board may take any administrative action within
22 its authority to ensure compliance with decisions of arbitrators
23 authorized by this section. Either party may also bring an action
24 in state court to compel a party to go into arbitration or to enforce
25 the decision of an arbitrator. Costs of arbitration shall be shared
26 equally by the parties, and any party shall be entitled to recover any
27 reasonable fees or costs incurred in securing compliance with or
28 enforcement of an award or order of the arbitrator.

29 (e) Nothing in this section shall prevent a labor union and an
30 individual trainer, or any group of trainers, from entering into a
31 mutually acceptable agreement, which may substitute for the
32 requirements of subdivision (d), for union organizing of
33 employees of the horsemen or trainers. Nothing in this article shall
34 be interpreted to require representative parties in negotiation to
35 enter into any labor agreement, as long as each party is negotiating
36 in a good faith effort to reach an agreement.

37 SEC. 28. Section 19549.14 of the Business and Professions
38 Code is amended to read:

39 19549.14. (a) Notwithstanding, Section 19489 or any other
40 provision of this chapter, the board may permit the San Mateo



1 County Fair to conduct live racing meetings at another site within
2 or ~~outside~~ *without* San Mateo County if its present site, Bay
3 Meadows, closes.

4 (b) Live horse racing meetings conducted by the San Mateo
5 County Fair, whether they are conducted within or ~~outside~~ *of*
6 *without* San Mateo County, shall be subject to the same provisions
7 as are presently applicable to the San Mateo County Fair's conduct
8 of live horse racing meetings at Bay Meadows.

9 SEC. 29. Section 20007 of the Business and Professions Code
10 is amended to read:

11 20007. "Franchise fee" means any fee or charge that a
12 franchisee or subfranchisor is required to pay or agrees to pay for
13 the right to enter into a business under a franchise agreement,
14 including, but not limited to, any such payment for such goods and
15 services.

16 However, the following shall not be considered the payment of
17 a franchise fee:

18 (a) The purchase or agreement to purchase goods at a bona fide
19 wholesale price if no obligation is imposed upon the purchaser to
20 purchase or pay for a quantity of such goods in excess of that which
21 a reasonable ~~businessman~~ *businessperson* normally would
22 purchase by way of a starting inventory or supply or to maintain
23 a going inventory or supply.

24 (b) The payment of a reasonable service charge to the issuer of
25 a credit card by an establishment accepting or honoring ~~such~~ *that*
26 credit card.

27 (c) Amounts paid to a trading stamp company ~~licensed~~ under
28 Chapter 3 (commencing with Section 17750) of Part 3 of Division
29 7 by a person issuing trading stamps in connection with the retail
30 sale of merchandise or service.

31 (d) The payment, directly or indirectly, of a franchise fee
32 which, on an annual basis, does not exceed the sum of one hundred
33 dollars (\$100).

34 (e) The payment of a sum of not exceeding one thousand
35 dollars (\$1,000) annually on account of the purchase price or rental
36 of fixtures, equipment, or other tangible property to be utilized in,
37 and necessary for, the operation of the franchised business, if the
38 price or rental so charged does not exceed the cost which would be
39 incurred by the franchisee acquiring the item or items from other
40 persons or in the open market.

1 SEC. 30. Section 23987 of the Business and Professions Code
2 is amended to read:

3 23987. Upon the receipt by the department of an original
4 application for any license or an application for transfer of any
5 license, written notice thereof, consisting of a copy of the
6 application, shall immediately be mailed by the department to the
7 sheriff, chief of police, and district attorney of the locality in which
8 the premises are situated, to the city or county planning director,
9 whoever has jurisdiction, the board of supervisors of the county in
10 which the premises are situated, if ~~in~~ *within an* unincorporated
11 ~~territory~~ *area*, and to the city council or other governing body of
12 the city in which the premises are situated, if within an
13 incorporated area.

14 Except as specified in paragraph (2) of subdivision (e) of
15 Section 23800, no license shall be issued or transferred by the
16 department until at least 30 days after the mailing by the
17 department of the notices required by this section. The department
18 may extend the 30-day period specified in the preceding sentence
19 for a period not to exceed an additional 20 days, upon the written
20 request of any local law enforcement agency that states proper
21 grounds for extension. Proper grounds for extension are limited to
22 the requesting agency or official being in the process of preparing
23 either a protest or proposed conditions with respect to the issuance
24 or transfer of a license.

25 SEC. 31. Section 43.8 of the Civil Code is amended to read:

26 43.8. In addition to the privilege afforded by Section 47, there
27 shall be no monetary liability on the part of, and no cause of action
28 for damages shall arise against, any person on account of the
29 communication of information in the possession of ~~such~~ *that*
30 person to any hospital, hospital medical staff, veterinary hospital
31 staff, professional society, medical, dental, podiatric~~-school~~, or
32 veterinary school, professional licensing board or division,
33 committee or panel of such licensing board, the Senior Assistant
34 Attorney General of the Health Quality Enforcement Section
35 appointed under Section 12529 of the Government Code, peer
36 review committee, quality assurance committees established in
37 compliance with Sections 4070 and 5624 of the Welfare and
38 Institutions Code, or underwriting committee described in Section
39 43.7 when ~~such~~ *the* communication is intended to aid in the
40 evaluation of the qualifications, fitness, character, or insurability

1 of a practitioner of the healing or veterinary arts. The immunities
2 afforded by this section and by Section 43.7 shall not affect the
3 availability of any absolute privilege which may be afforded by
4 Section 47.

5 SEC. 32. Section 789 of the Civil Code is amended to read:

6 789. A tenancy or other estate at will, however created, may
7 ~~be determined~~ *terminated* by the landlord's giving notice in
8 writing to the tenant, in the manner prescribed by ~~section eleven~~
9 ~~hundred and sixty-two~~ *Section 1162* of the Code of Civil
10 Procedure, to remove from the premises within a period of not less
11 than ~~thirty~~ 30 days, to be specified in the notice.

12 SEC. 33. Section 827 of the Civil Code, as amended by
13 Section 1 of Chapter 593 of the Statutes of 2001, is amended to
14 read:

15 827. (a) Except as provided in subdivision (b), in all leases of
16 lands or tenements, or of any interest therein, from week to week,
17 month to month, or other period less than a month, the landlord
18 may, upon giving notice in writing to the tenant, in the manner
19 prescribed by Section 1162 of the Code of Civil Procedure, change
20 the terms of the lease to take effect, as to tenancies for less than one
21 month, upon the expiration of a period at least as long as the term
22 of the hiring itself, and, as to tenancies from month to month, to
23 take effect at the expiration of not less than 30 days, but if that
24 change takes effect within a rental term, the rent accruing from the
25 first day of the term to the date of that change shall be computed
26 at the rental rate ~~which~~ obtained immediately prior to that change;
27 provided, however, that it shall be competent for the parties to
28 provide by an agreement in writing that a notice changing the
29 terms thereof may be given at any time not less than seven days
30 before the expiration of a term, to be effective upon the expiration
31 of the term.

32 The notice, when served upon the tenant, shall of itself operate
33 and be effectual to create and establish, as a part of the lease, the
34 terms, rents, and conditions specified in the notice, if the tenant
35 shall continue to hold the premises after the notice takes effect.

36 (b) (1) In all leases of a residential dwelling, or of any interest
37 therein, from week to week, month to month, or other period less
38 than a month, the landlord may increase the rent provided in the
39 lease or rental agreement, upon giving written notice to the tenant,
40 as follows, by either of the following procedures:

1 (A) By delivering a copy to the tenant personally.

2 (B) By serving a copy by mail under the procedures prescribed
3 in Section 1013 of the Code of Civil Procedure.

4 (2) If the proposed rent increase for that tenant is 10 percent or
5 less of the rental amount charged to that tenant at any time during
6 the 12 months prior to the effective date of the increase, either in
7 and of itself or when combined with any other rent increases for
8 the 12 months prior to the effective date of the increase, the notice
9 shall be delivered at least 30 days prior to the effective date of the
10 increase, and subject to Section 1013 of the Code of Civil
11 Procedure if served by mail.

12 (3) For an increase in rent greater than the amount described in
13 paragraph (2), the minimum notice period required pursuant to
14 that paragraph shall be increased by an additional 30 days, and
15 subject to Section 1013 of the Code of Civil Procedure if served
16 by mail. This paragraph shall not apply to an increase in rent
17 caused by a change in a tenant's income or family composition as
18 determined by a recertification required by statute or regulation.

19 (c) If a state or federal statute, state or federal regulation,
20 recorded regulatory agreement, or contract provides for a longer
21 period of notice regarding a rent increase than that provided in
22 subdivision (a) or (b), the personal service or mailing of the notice
23 shall be in accordance with the longer period.

24 (d) This section shall be operative only until January 1, 2006,
25 and as of that date is repealed, unless a later enacted statute, which
26 is enacted on or before January 1, 2006, deletes or extends that
27 date.

28 SEC. 34. Section 827 of the Civil Code, as amended by
29 Section 3 of Chapter 680 of the Statutes of 2000, is amended to
30 read:

31 827. (a) In all leases of lands or tenements, or of any interest
32 therein, from week to week, month to month, or other period less
33 than a month, the landlord may, upon giving notice in writing to
34 the tenant, in the manner prescribed by Section 1162 of the Code
35 of Civil Procedure, change the terms of the lease to take effect, as
36 to tenancies for less than one month, upon the expiration of a
37 period at least as long as the term of the hiring itself, and, as to
38 tenancies from month to month, to take effect at the expiration of
39 not less than 30 days, but if that change takes effect within a rental
40 term, the rent accruing from the first day of the term to the date of

1 that change shall be computed at the rental rate ~~which was~~ obtained
2 immediately prior to that change; provided, however, that it shall
3 be competent for the parties to provide by an agreement in writing
4 that a notice changing the terms thereof may be given at any time
5 not less than seven days before the expiration of a term, to be
6 effective upon the expiration of the term.

7 The notice, when served upon the tenant, shall of itself operate
8 and be effectual to create and establish, as a part of the lease, the
9 terms, rents, and conditions specified in the notice, if the tenant
10 shall continue to hold the premises after the notice takes effect.

11 (b) This section shall become operative on January 1, 2006.

12 SEC. 35. Section 1102.6 of the Civil Code is amended to read:

13 1102.6. The disclosures required by this article pertaining to
14 the property proposed to be transferred are set forth in, and shall
15 be made on a copy of, the following disclosure form:

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2
3 NOTE TO PRINTING OFFICE: INSERT CAMERA-READY
4 COPY HERE
5
6 for Real Estate Transfer Disclosure Statement
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8 as printed on pages 9 to 13 of Chapter 926, 1996 Statutes.
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1 SEC. 36. Section 1375 of the Civil Code, as amended by
2 Chapter 824 of the Statutes of 2001, is amended to read:

3 1375. (a) Before an association files a complaint for damages
4 against a builder, developer, or general contractor (“respondent”)
5 of a common interest development based upon a claim for defects
6 in the design or construction of the common interest development,
7 all of the requirements of this section shall be satisfied with respect
8 to the builder, developer, or general contractor.

9 (b) The association shall serve upon the respondent a “Notice
10 of Commencement of Legal ~~Proceeding~~ *Proceedings*.” The notice
11 shall be served by certified mail to the registered agent of the
12 respondent, or if there is no registered agent, then to any officer of
13 the respondent. If there are no current officers of the respondent,
14 service shall be upon the person or entity otherwise authorized by
15 law to receive service of process. Service upon the general
16 contractor shall be sufficient to initiate the process set forth in this
17 section with regard to any builder or developer, if the builder or
18 developer is not amenable to service of process by the foregoing
19 methods. This notice shall toll all applicable statutes of limitation
20 and repose, whether contractual or statutory, by and against all
21 potentially responsible parties, regardless of whether they were
22 named in the notice, including claims for indemnity applicable to
23 the claim for the period set forth in subdivision (c). The notice shall
24 include all of the following:

25 (1) The name and location of the project.

26 (2) An initial list of defects sufficient to apprise the respondent
27 of the general nature of the defects at issue.

28 (3) A description of the results of the defects, if known.

29 (4) A summary of the results of a survey or questionnaire
30 distributed to homeowners to determine the nature and extent of
31 defects, if a survey has been conducted or a questionnaire has been
32 distributed.

33 (5) Either a summary of the results of testing conducted to
34 determine the nature and extent of defects or the actual test results,
35 if that testing has been conducted.

36 (c) Service of the notice shall commence a period, not to exceed
37 180 days, during which the association, the respondent, and all
38 other participating parties shall try to resolve the dispute through
39 the processes set forth in this section. This 180-day period may be
40 extended for one additional period, not to exceed 180 days, only

1 upon the mutual agreement of the association, the respondent, and
2 any parties not deemed peripheral pursuant to paragraph (3) of
3 subdivision (e). Any extensions beyond the first extension shall
4 require the agreement of all participating parties. Unless extended,
5 the dispute resolution process prescribed by this section shall be
6 deemed completed. All extensions shall continue the tolling period
7 described in subdivision (b).

8 (d) Within 25 days of the date the association serves the Notice
9 of Commencement of Legal Proceedings, the respondent may
10 request in writing to meet and confer with the board of directors
11 of the association. Unless the respondent and the association
12 otherwise agree, there shall be not more than one meeting, which
13 shall take place no later than 10 days from the date of the
14 respondent's written request, at a mutually agreeable time and
15 place. The meeting shall be subject to subdivision (b) of Section
16 1363.05. The discussions at the meeting are privileged
17 communications and are not admissible in evidence in any civil
18 action, unless the association and the respondent consent in writing
19 to their admission.

20 (e) Upon receipt of the notice, the respondent shall, within 60
21 days, comply with the following:

22 (1) The respondent shall provide the association with access to,
23 for inspection and copying of, all plans and specifications,
24 subcontracts, and other construction files for the project that are
25 reasonably calculated to lead to the discovery of admissible
26 evidence regarding the defects claimed. The association shall
27 provide the respondent with access to, for inspection and copying
28 of, all files reasonably calculated to lead to the discovery of
29 admissible evidence regarding the defects claimed, including all
30 reserve studies, maintenance records and any survey
31 questionnaires, or results of testing to determine the nature and
32 extent of defects. To the extent any of the above documents are
33 withheld based on privilege, a privilege log shall be prepared and
34 submitted to all other parties. All other potentially responsible
35 parties shall have the same rights as the respondent regarding the
36 production of documents upon receipt of written notice of the
37 claim, and shall produce all relevant documents within 60 days of
38 receipt of the notice of the claim.

39 (2) The respondent shall provide written notice by certified
40 mail to all subcontractors, design professionals, their insurers, and

1 the insurers of any additional insured whose identities are known
 2 to the respondent or readily ascertainable by review of the project
 3 files or other similar sources and whose potential responsibility
 4 appears on the face of the notice. This notice to subcontractors,
 5 design professionals, and insurers shall include a copy of the
 6 Notice of Commencement of Legal ~~Proceeding~~ *Proceedings*, and
 7 shall specify the date and manner by which the parties shall meet
 8 and confer to select a dispute resolution facilitator pursuant to
 9 paragraph (1) of subdivision (f), advise the recipient of its
 10 obligation to participate in the meet and confer or serve a written
 11 acknowledgment of receipt regarding this notice, advise the
 12 recipient that it will waive any challenge to selection of the dispute
 13 resolution facilitator if it elects not to participate in the meet and
 14 confer, advise the recipient that it may be bound by any settlement
 15 reached pursuant to subdivision (d) of Section 1375.05, advise the
 16 recipient that it may be deemed to have waived rights to conduct
 17 inspection and testing pursuant to subdivision (c) of Section
 18 1375.05, advise the recipient that it may seek the assistance of an
 19 attorney, and advise the recipient that it should contact its insurer,
 20 if any. Any subcontractor or design professional, or insurer for that
 21 subcontractor, design professional, or additional insured, who
 22 receives written notice from the respondent regarding the meet and
 23 confer shall, prior to the meet and confer, serve on the respondent
 24 a written acknowledgment of receipt. That subcontractor or design
 25 professional shall, within 10 days of service of the written
 26 acknowledgment of receipt, provide to the association and the
 27 respondent a Statement of Insurance that includes both of the
 28 following:

29 (A) The names, addresses, and contact persons, if known, of all
 30 insurance carriers, whether primary or excess and regardless of
 31 whether a deductible or self-insured retention applies, whose
 32 policies were in effect from the commencement of construction of
 33 the subject project to the present and which potentially cover the
 34 subject claims.

35 (B) The applicable policy numbers for each such policy of
 36 insurance.

37 (3) Any subcontractor or design professional, or insurer for that
 38 subcontractor, design professional, or additional insured, who so
 39 chooses, may, at any time, make a written request to the dispute
 40 resolution ~~facility~~ *facilitator* for designation as a peripheral party.

1 That request shall be served contemporaneously on the association
2 and the respondent. If no objection to that designation is received
3 within 15 days, or upon rejection of that objection, the dispute
4 resolution facilitator shall designate that subcontractor or design
5 professional as a peripheral party, and shall thereafter seek to limit
6 the attendance of that subcontractor or design professional only to
7 those dispute resolution sessions deemed peripheral party sessions
8 or to those sessions during which the dispute resolution facilitator
9 believes settlement as to peripheral parties may be finalized.
10 Nothing in this subdivision shall preclude a party who has been
11 designated a peripheral party from being reclassified as a
12 nonperipheral party, nor shall this subdivision preclude a party
13 designated as a nonperipheral party from being reclassified as a
14 peripheral party after notice to all parties and an opportunity to
15 object. For purposes of this subdivision, a peripheral party is a
16 party having total claimed exposure of less than twenty-five
17 thousand dollars (\$25,000).

18 (f) (1) Within 20 days of sending the notice set forth in
19 paragraph (2) of subdivision (e), the association, respondent,
20 subcontractors, design professionals, and their insurers who have
21 been sent a notice as described in paragraph (2) of subdivision (e)
22 shall meet and confer in an effort to select a dispute resolution
23 facilitator to preside over the mandatory dispute resolution process
24 prescribed by this section. Any subcontractor or design
25 professional who has been given timely notice of this meeting but
26 who does not participate, waives any challenge he or she may have
27 as to the selection of the dispute resolution facilitator. The role of
28 the dispute resolution facilitator is to attempt to resolve the conflict
29 in a fair manner. The dispute resolution facilitator shall be
30 sufficiently knowledgeable in the subject matter and be able to
31 devote sufficient time to the case. The dispute resolution facilitator
32 shall not be required to reside in or have an office in the county in
33 which the project is located. The dispute resolution facilitator and
34 the participating parties shall agree to a date, time, and location to
35 hold a case management meeting of all parties and the dispute
36 resolution facilitator, to discuss the claims being asserted and the
37 scheduling of events under this section. The case management
38 meeting with the dispute resolution facilitator shall be held within
39 100 days of service of the Notice of Commencement of Legal
40 Proceedings at a location in the county where the project is located.



1 Written notice of the case management meeting with the dispute
2 resolution facilitator shall be sent by the respondent to the
3 association, subcontractors and design professionals, and their
4 insurers who are known to the respondent to be on notice of the
5 claim, no later than 10 days prior to the case management meeting,
6 and shall specify its date, time, and location. The dispute
7 resolution facilitator in consultation with the respondent, shall
8 maintain a contact list of the participating parties.

9 (2) No later than 10 days prior to the case management
10 meeting, the dispute resolution facilitator shall disclose to the
11 parties all matters that could cause a person aware of the facts to
12 reasonably entertain a doubt that the proposed dispute resolution
13 facilitator would be able to resolve the conflict in a fair manner.
14 The facilitator's disclosure shall include the existence of any
15 ground specified in Section 170.1 of the Code of Civil Procedure
16 for disqualification of a judge, any attorney-client relationship the
17 facilitator has or had with any party or lawyer for a party to the
18 dispute resolution process, and any professional or significant
19 personal relationship the facilitator or his or her spouse or minor
20 child living in the household has or had with any party to the
21 dispute resolution process. The disclosure shall also be provided
22 to any subsequently noticed subcontractor or design professional
23 within 10 days of the notice.

24 (3) A dispute resolution facilitator shall be disqualified by the
25 court if he or she fails to comply with this paragraph and any party
26 to the dispute resolution process serves a notice of disqualification
27 prior to the case management meeting. If the dispute resolution
28 facilitator complies with this paragraph, he or she shall be
29 disqualified by the court on the basis of the disclosure if any party
30 to the dispute resolution process serves a notice of disqualification
31 prior to the case management meeting.

32 (4) If the parties cannot mutually agree to a dispute resolution
33 facilitator, then each party shall submit a list of three dispute
34 resolution facilitators. Each party may then strike one nominee
35 from the other parties' list, and petition the court, pursuant to the
36 procedure described in subdivisions (n) and (o), for final selection
37 of the dispute resolution facilitator. The court may issue an order
38 for final selection of the dispute resolution facilitator pursuant to
39 this paragraph.

1 (5) Any subcontractor or design professional who receives
2 notice of the association's claim without having previously
3 received timely notice of the meet and confer to select the dispute
4 resolution facilitator shall be notified by the respondent regarding
5 the name, address, and telephone number of the dispute resolution
6 facilitator. Any such subcontractor or design professional may
7 serve upon the parties and the dispute resolution facilitator a
8 written objection to the dispute resolution facilitator within 15
9 days of receiving notice of the claim. Within seven days after
10 service of this objection, the subcontractor or design professional
11 may petition the superior court to replace the dispute resolution
12 facilitator. The court may replace the dispute resolution facilitator
13 only upon a showing of good cause, liberally construed. Failure to
14 satisfy the deadlines set forth in this subdivision shall constitute a
15 waiver of the right to challenge the dispute resolution facilitator.

16 (6) The costs of the dispute resolution facilitator shall be
17 apportioned in the following manner: one-third to be paid by the
18 association; one-third to be paid by the respondent; and one-third
19 to be paid by the subcontractors and design professionals, as
20 allocated among them by the dispute resolution facilitator. The
21 costs of the dispute resolution facilitator shall be recoverable by
22 the prevailing party in any subsequent litigation pursuant to
23 Section 1032 of the Code of Civil Procedure, provided however
24 that any nonsettling party may, prior to the filing of the complaint,
25 petition the facilitator to reallocate the costs of the dispute
26 resolution facilitator as they apply to any nonsettling party. The
27 determination of the dispute resolution facilitator with respect to
28 the allocation of these costs shall be binding in any subsequent
29 litigation. The dispute resolution facilitator shall take into account
30 all relevant factors and equities between all parties in the dispute
31 resolution process when reallocating costs.

32 (7) In the event the dispute resolution facilitator is replaced at
33 any time, the case management statement created pursuant to
34 subdivision (h) shall remain in full force and effect.

35 (8) The dispute resolution facilitator shall be empowered to
36 enforce all provisions of this section.

37 (g) (1) No later than the case management meeting, the parties
38 shall begin to generate a data compilation showing the following
39 information regarding the alleged defects at issue:



1 (A) The scope of the work performed by each potentially
2 responsible subcontractor.

3 (B) The tract or phase number in which each subcontractor
4 provided goods or services, or both.

5 (C) The units, either by address, unit number, or lot number, at
6 which each subcontractor provided goods or services, or both.

7 (2) This data compilation shall be updated as needed to reflect
8 additional information. Each party attending the case management
9 meeting, and any subsequent meeting pursuant to this section,
10 shall provide all information available to that party relevant to this
11 data compilation.

12 (h) At the case management meeting, the parties shall, with the
13 assistance of the dispute resolution facilitator, reach agreement on
14 a case management statement, which shall set forth all of the
15 elements set forth in paragraphs (1) to (8), inclusive, except that
16 the parties may dispense with one or more of these elements if they
17 agree that it is appropriate to do so. The case management
18 statement shall provide that the following elements shall take place
19 in the following order:

20 (1) Establishment of a document depository, located in the
21 county where the project is located, for deposit of documents,
22 defect lists, demands, and other information provided for under
23 this section. All documents exchanged by the parties and all
24 documents created pursuant to this subdivision shall be deposited
25 in the document depository, which shall be available to all parties
26 throughout the prefiling dispute resolution process and in any
27 subsequent litigation. When any document is deposited in the
28 document depository, the party depositing the document shall
29 provide written notice identifying the document to all other
30 parties. The costs of maintaining the document depository shall be
31 apportioned among the parties in the same manner as the costs of
32 the dispute resolution facilitator.

33 (2) Provision of a more detailed list of defects by the
34 association to the respondent after the association completes a
35 visual inspection of the project. This list of defects shall provide
36 sufficient detail for the respondent to ensure that all potentially
37 responsible subcontractors and design professionals are provided
38 with notice of the dispute resolution process. If not already
39 completed prior to the case management meeting, the Notice of
40 Commencement of Legal ~~Proceeding~~ *Proceedings* shall be served

1 by the respondent on all additional subcontractors and design
2 professionals whose potential responsibility appears on the face of
3 the more detailed list of defects within seven days of receipt of the
4 more detailed list. The respondent shall serve a copy of the case
5 management statement, including the name, address, and
6 telephone number of the dispute resolution facilitator, to all the
7 potentially responsible subcontractors and design professionals at
8 the same time.

9 (3) Nonintrusive visual inspection of the project by the
10 respondent, subcontractors, and design professionals.

11 (4) Invasive testing conducted by the association, if the
12 association deems appropriate. All parties may observe and
13 photograph any testing conducted by the association pursuant to
14 this paragraph, but may not take samples or direct testing unless,
15 by mutual agreement, costs of testing are shared by the parties.

16 (5) Provision by the association of a comprehensive demand
17 which provides sufficient detail for the parties to engage in
18 meaningful dispute resolution as contemplated under this section.

19 (6) Invasive testing conducted by the respondent,
20 subcontractors, and design professionals, if they deem
21 appropriate.

22 (7) Allowance for modification of the demand by the
23 association if new issues arise during the testing conducted by the
24 respondent, subcontractor, or design professionals.

25 (8) Facilitated dispute resolution of the claim, with all parties,
26 including peripheral parties, as appropriate, and insurers, if any,
27 present and having settlement authority. The dispute resolution
28 facilitators shall endeavor to set specific times for the attendance
29 of specific parties at dispute resolution sessions. If the dispute
30 resolution facilitator does not set specific times for the attendance
31 of parties at dispute resolution sessions, the dispute resolution
32 facilitator shall permit those parties to participate in dispute
33 resolution sessions by telephone.

34 (i) In addition to the foregoing elements of the case
35 management statement described in subdivision (h), upon mutual
36 agreement of the parties, the dispute resolution facilitator may
37 include any or all of the following elements in a case management
38 statement: the exchange of consultant or expert photographs;
39 expert presentations; expert meetings; or any other mechanism

1 deemed appropriate by the parties in the interest of resolving the
2 dispute.

3 (j) The dispute resolution facilitator, with the guidance of the
4 parties, shall at the time the case management statement is
5 established, set deadlines for the occurrence of each event set forth
6 in the case management statement, taking into account such factors
7 as the size and complexity of the case, and the requirement of this
8 section that this dispute resolution process not exceed 180 days
9 absent agreement of the parties to an extension of time.

10 (k) (1) (A) At a time to be determined by the dispute
11 resolution facilitator, the respondent may submit to the association
12 all of the following:

13 (i) A request to meet with the board to discuss a written
14 settlement offer.

15 (ii) A written settlement offer, and a concise explanation of the
16 reasons for the terms of the offer.

17 (iii) A statement that the respondent has access to sufficient
18 funds to satisfy the conditions of the settlement offer.

19 (iv) A summary of the results of testing conducted for the
20 purposes of determining the nature and extent of defects, if this
21 testing has been conducted, unless the association provided the
22 respondent with actual test results.

23 (B) If the respondent does not timely submit the items required
24 by this subdivision, the association shall be relieved of any further
25 obligation to satisfy the requirements of this subdivision only.

26 (C) No less than 10 days after the respondent submits the items
27 required by this paragraph, the respondent and the board of
28 directors of the association shall meet and confer about the
29 respondent's settlement offer.

30 (D) If the association's board of directors rejects a settlement
31 offer presented at the meeting held pursuant to this subdivision, the
32 board shall hold a meeting open to each member of the association.
33 The meeting shall be held no less than 15 days before the
34 association commences an action for damages against the
35 respondent.

36 (E) No less than 15 days before this meeting is held, a written
37 notice shall be sent to each member of the association specifying
38 all of the following:

1 (i) That a meeting will take place to discuss problems that may
2 lead to the filing of a civil action, and the time and place of this
3 meeting.

4 (ii) The options that are available to address the problems,
5 including the filing of a civil action and a statement of the various
6 alternatives that are reasonably foreseeable by the association to
7 pay for those options and whether these payments are expected to
8 be made from the use of reserve account funds or the imposition
9 of regular or special assessments, or emergency assessment
10 increases.

11 (iii) The complete text of any written settlement offer, and a
12 concise explanation of the specific reasons for the terms of the
13 offer submitted to the board at the meeting held pursuant to
14 subdivision (d) that was received from the respondent.

15 (F) The respondent shall pay all expenses attributable to
16 sending the settlement offer to all members of the association. The
17 respondent shall also pay the expense of holding the meeting, not
18 to exceed three dollars (\$3) per association member.

19 (G) The discussions at the meeting and the contents of the
20 notice and the items required to be specified in the notice pursuant
21 to paragraph (E) are privileged communications and are not
22 admissible in evidence in any civil action, unless the association
23 consents to their admission.

24 (H) No more than one request to meet and discuss a written
25 settlement offer may be made by the respondent pursuant to this
26 subdivision.

27 (I) Except for the purpose of in camera review as provided in
28 subdivision (c) of Section 1375.05, all defect lists and demands,
29 communications, negotiations, and settlement offers made in the
30 course of the prelitigation dispute resolution process provided by
31 this section shall be inadmissible pursuant to Sections 1119 to
32 1124, inclusive, of the Evidence Code and all applicable decisional
33 law. This inadmissibility shall not be extended to any other
34 documents or communications which would not otherwise be
35 deemed inadmissible.

36 (m) Any subcontractor or design professional may, at any time,
37 petition the dispute resolution facilitator to release that party from
38 the dispute resolution process upon a showing that the
39 subcontractor or design professional is not potentially responsible
40 for the defect claims at issue. The petition shall be served



1 contemporaneously on all other parties, who shall have 15 days
2 from the date of service to object. If a subcontractor or design
3 professional is released, and it later appears to the dispute
4 resolution facilitator that it may be a responsible party in light of
5 the current defect list or demand, the respondent shall renotice the
6 party as provided by paragraph (2) of subdivision (e), provide a
7 copy of the current defect list or demand, and direct the party to
8 attend a dispute resolution session at a stated time and location. A
9 party who subsequently appears after having been released by the
10 dispute resolution facilitator shall not be prejudiced by its absence
11 from the dispute resolution process as the result of having been
12 previously released by the dispute resolution facilitator.

13 (n) Any party may, at any time, petition the superior court in the
14 county where the project is located, upon a showing of good cause,
15 and the court may issue an order, for any of the following, or for
16 appointment of a referee to resolve a dispute regarding any of the
17 following:

18 (1) To take a deposition of any party to the process, or subpoena
19 a third party for deposition or production of documents, which is
20 necessary to further prelitigation resolution of the dispute.

21 (2) To resolve any disputes concerning inspection, testing,
22 production of documents, or exchange of information provided for
23 under this section.

24 (3) To resolve any disagreements relative to the timing or
25 contents of the case management statement.

26 (4) To authorize internal extensions of timeframes set forth in
27 the case management statement.

28 (5) To seek a determination that a settlement is a good faith
29 settlement pursuant to Section 877.6 of the Code of Civil
30 Procedure and all related authorities. The page limitations and
31 meet and confer requirements specified in this section shall not
32 apply to these motions, which may be made on shortened notice.
33 Instead, these motions shall be subject to other applicable state law,
34 rules of court, and local rules. A determination made by the court
35 pursuant to this motion shall have the same force and effect as the
36 determination of a postfiling application or motion for good faith
37 settlement.

38 (6) To ensure compliance, on shortened notice, with the
39 obligation to provide a Statement of Insurance pursuant to
40 paragraph (2) of subdivision (e).

(7) For any other relief appropriate to the enforcement of the provisions of this section, including the ordering of parties, and insurers, if any, to the dispute resolution process with settlement authority.

(o) (1) A petition filed pursuant to subdivision (n) shall be filed in the superior court in the county in which the project is located. The court shall hear and decide the petition within 10 days after filing. The petitioning party shall serve the petition on all parties, including the date, time, and location of the hearing no later than five business days prior to the hearing. Any responsive papers shall be filed and served no later than three business days prior to the hearing. Any petition or response filed under this section shall be no more than three pages in length.

(2) All parties shall meet with the dispute resolution facilitator, if one has been appointed and confer in person or by the telephone prior to the filing of that petition to attempt to resolve the matter without requiring court intervention.

(p) As used in this section:

(1) “Association” shall have the same meaning as defined in subdivision (a) of Section 1351.

(2) “Builder” means the declarant, as defined in subdivision (g) of Section 1351.

(3) “Common interest development” shall have the same meaning as in subdivision (c) of Section 1351, except that it shall not include developments or projects with less than 20 units.

(q) The alternative dispute resolution process and procedures described in this section shall have no application or legal effect other than as described in this section.

(r) This section shall become operative on July 1, 2002, however it shall not apply to any pending suit or claim for which notice has previously been given.

(s) This section shall become inoperative on July 1, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Section 1375.05 of the Civil Code is amended to read:

1375.05. (a) Upon the completion of the mandatory prefiling dispute resolution process described in Section 1375, if the parties have not settled the matter, the association or its assignee may file

1 a complaint in the superior court in the county in which the project
2 is located. Those matters shall be given trial priority.

3 (b) In assigning trial priority, the court shall assign the earliest
4 possible trial date, taking into consideration the pretrial
5 preparation completed pursuant to Section 1375, and shall deem
6 the complaint to have been filed on the date of service of the Notice
7 of Commencement of Legal ~~Proceeding~~ *Proceedings* described
8 under Section 1375.

9 (c) Any respondent, subcontractor, or design professional who
10 received timely prior notice of the inspections and testing
11 conducted under Section 1375 shall be prohibited from engaging
12 in additional inspection or testing, except if all of the following
13 specific conditions are met, upon motion to the court:

14 (1) There is an insurer for a subcontractor or design
15 professional, that did not have timely notice that legal proceedings
16 were commenced under Section 1375 at least 30 days prior to the
17 commencement of inspections or testing pursuant to paragraph (6)
18 of subdivision (h) of Section 1375.

19 (2) The insurer's insured did not participate in any inspections
20 or testing conducted under the provisions of paragraph (6) of
21 subdivision (h) of Section 1375.

22 (3) The insurer has, after receiving notice of a complaint filed
23 in superior court under subdivision (a), retained separate counsel,
24 who did not participate in the Section 1375 dispute resolution
25 process, to defend its insured as to the allegations in the complaint.

26 (4) It is reasonably likely that the insured would suffer
27 prejudice if additional inspections or testing are not permitted.

28 (5) The information obtainable through the proposed
29 additional inspections or testing is not available through any
30 reasonable alternative sources.

31 If the court permits additional inspections or testing upon
32 finding that these requirements are met, any additional inspections
33 or testing shall be limited to the extent reasonably necessary to
34 avoid the likelihood of prejudice and shall be coordinated among
35 all similarly situated parties to ensure that they occur without
36 unnecessary duplication. For purposes of providing notice to an
37 insurer prior to inspections or testing under paragraph (6) of
38 subdivision (h) of Section 1375, if notice of the proceedings was
39 not provided by the insurer's insured, notice may be made via
40 certified mail either by the subcontractor, design professional,

1 association, or respondent to the address specified in the Statement
2 of Insurance provided under paragraph (2) of subdivision (e) of
3 Section 1375. Nothing herein shall affect the rights of an
4 intervenor who files a complaint in intervention. If the association
5 alleges defects that were not specified in the prefiling dispute
6 resolution process under Section 1375, the respondent,
7 subcontractor, and design professionals shall be permitted to
8 engage in testing or inspection necessary to respond to the
9 additional claims. A party who seeks additional inspections or
10 testing based upon the amendment of claims shall apply to the
11 court for leave to conduct those inspections or that testing. If the
12 court determines that it must review the defect claims alleged by
13 the association in the prefiling dispute resolution process in order
14 to determine whether the association alleges new or additional
15 defects, this review shall be conducted in camera. Upon objection
16 of any party, the court shall refer the matter to a judge other than
17 the assigned trial judge to determine if the claim has been amended
18 in such a way as to require additional testing or inspection.

19 (d) Any subcontractor or design professional who had notice of
20 the facilitated dispute resolution conducted under Section 1375
21 but failed to attend, or attended without settlement authority, shall
22 be bound by the amount of any settlement reached in the facilitated
23 dispute resolution in any subsequent trial, although the affected
24 party may introduce evidence as to the allocation of the settlement.
25 Any party who failed to participate in the facilitated dispute
26 resolution because the party did not receive timely notice of the
27 mediation shall be relieved of any obligation to participate in the
28 settlement. Notwithstanding any privilege applicable to the
29 prefiling dispute resolution process provided by Section 1375,
30 evidence may be introduced by any party to show whether a
31 subcontractor or design professional failed to attend or attended
32 without settlement authority. The binding effect of this
33 subdivision shall in no way diminish or reduce a nonsettling
34 subcontractor or design professional's right to defend itself or
35 assert all available defenses relevant to its liability in any
36 subsequent trial. For purposes of this subdivision, a subcontractor
37 or design professional shall not be deemed to have attended
38 without settlement authority because it asserted defenses to its
39 potential liability.



(e) Notice of the facilitated dispute resolution conducted under Section 1375 must be mailed by the respondent no later than 20 days prior to the date of the first facilitated dispute resolution session to all parties. Notice shall also be mailed to each of these parties' known insurance carriers. Mailing of this notice shall be by certified mail. Any subsequent facilitated dispute resolution notices shall be served by any means reasonably calculated to provide those parties actual notice.

(f) As to the complaint, the order of discovery shall, at the request of any defendant, except upon a showing of good cause, permit the association's expert witnesses to be deposed prior to any percipient party depositions. The depositions shall, at the request of the association, be followed immediately by the defendant's experts and then by the subcontractors' and design professionals' experts, except on a showing of good cause. For purposes of this section, in determining what constitutes "good cause," the court shall consider, among other things, the goal of early disclosure of defects and whether the expert is prepared to render a final opinion, except that the court may modify the scope of any expert's deposition to address those concerns.

(g) (1) The only method of seeking judicial relief for the failure of the association or the respondent to complete the dispute resolution process under Section 1375 shall be the assertion, as provided for in this subdivision, of a procedural deficiency to an action for damages by the association against the respondent after that action has been filed. A verified application asserting a procedural deficiency shall be filed with the court no later than 90 days after the answer to the plaintiff's complaint has been served, unless the court finds that extraordinary conditions exist.

(2) Upon the verified application of the association or the respondent alleging substantial noncompliance with Section 1375, the court shall schedule a hearing within 21 days of the application to determine whether the association or respondent has substantially complied with this section. The issue may be determined upon affidavits or upon oral testimony, in the discretion of the court.

(3) (A) If the court finds that the association or the respondent did not substantially comply with this paragraph, the court shall stay the action for up to 90 days to allow the noncomplying party to establish substantial compliance. The court shall set a hearing

1 within 90 days to determine substantial compliance. At any time,
2 the court may, for good cause shown, extend the period of the stay
3 upon application of the noncomplying party.

4 (B) If, within the time set by the court pursuant to this
5 paragraph, the association or the respondent has not established
6 that it has substantially complied with this section, the court shall
7 determine if, in the interest of justice, the action should be
8 dismissed without prejudice, or if another remedy should be
9 fashioned. Under no circumstances shall the court dismiss the
10 action with prejudice as a result of the association's failure to
11 substantially comply with this section. In determining the
12 appropriate remedy, the court shall consider the extent to which the
13 respondent has complied with this section.

14 (h) This section ~~shall become~~ *is* operative on July 1, 2002,
15 ~~however it shall~~ *but does* not apply to any ~~pending~~ action or
16 proceeding *pending on that date*.

17 (i) This section shall become inoperative on July 1, 2010, and,
18 as of January 1, 2011, is repealed, unless a later enacted statute that
19 is enacted before January 1, 2011, deletes or extends the dates on
20 which it becomes inoperative and is repealed.

21 SEC. 38. Section 1632 of the Civil Code is amended to read:

22 1632. (a) Any person engaged in a trade or business who
23 negotiates primarily in the Spanish language orally or in writing
24 in the course of entering into:

25 (1) A contract or agreement subject to the provisions of Title
26 2 (commencing with Section 1801) of, and Chapter 2b
27 (commencing with Section 2981) and Chapter 2d (commencing
28 with Section 2985.7) of Title 14 of, Part 4 of Division 3;

29 (2) A loan or extension of credit secured other than by real
30 property, or unsecured, for use primarily for personal, family or
31 household purposes;

32 (3) A lease, sublease, rental contract or agreement, or other
33 term of tenancy contract or agreement, for a period of longer
34 than one month, covering a dwelling, an apartment, or
35 mobilehome, or other dwelling unit normally occupied as a
36 residence; or

37 (4) Notwithstanding paragraph (2), a loan or extension of
38 credit for use primarily for personal, family or household
39 purposes where the loan or extension of credit is subject to the
40 provisions of Article 7 (commencing with Section 10240) of

Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000), or Division 9 (commencing with Section 22000) of the Financial Code; or

(5) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code;

shall, deliver to the party to the contract or agreement and prior to the execution thereof, an unexecuted Spanish-language translation of the contract or agreement, except that for a loan subject to this part and to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the delivery of a Spanish-language translation of the statement to borrower required by Section 10240 of the Business and Professions Code; shall be deemed compliance with this subdivision. At the time and place where a contract or agreement described in this ~~paragraph is entered into~~ subdivision *is executed*, a Spanish-language notice shall be provided to the lessee or tenant.

(b) Provision by a supervised financial organization of a Spanish-language translation of the disclosures required by Regulation M or Regulation Z, and, if applicable, Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code, prior to the execution of the contract shall also be deemed compliance with the requirements of subdivision (a) with regard to the original contract or agreement.

(1) “Regulation M” and “Regulation Z” mean any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System and any interpretation or approval issued by an official or employee duly authorized by the board to issue interpretations or approvals dealing with, respectively, consumer leasing or consumer lending, pursuant to the Federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

(2) As used in this section, “supervised financial organization” means a bank, savings association~~(as~~, as defined in Section 5102

1 of the Financial ~~Code~~ *Code*, credit union, or holding company,
2 affiliate, or subsidiary thereof, or any person subject to Article 7
3 (commencing with Section 10240) of Chapter 3 of Part 1 of
4 Division 4 of the Business and Professions Code, or Division 7
5 (commencing with Section 18000) or Division 9 (commencing
6 with Section 22000) of the Financial Code.

7 (c) At the time and place where a contract or agreement
8 described in paragraph (1) or (2) of subdivision (a) is ~~entered into~~
9 *executed*, a Spanish-language notice shall be conspicuously
10 displayed to the effect that the person described in subdivision (a)
11 is required to provide an unexecuted Spanish-language contract or
12 agreement, or a Spanish-language translation of the disclosures
13 required by law, as the case may be. If a person described in
14 subdivision (a) does business at more than one location or branch,
15 the requirements of this section shall apply only with respect to the
16 location or branch at which the Spanish language is used.

17 (d) The term “contract” or “agreement,” as used in this
18 section, means the document creating the rights and obligations of
19 the parties and includes any subsequent document making
20 substantial changes in the rights and obligations of the parties. The
21 term “contract” or “agreement” does not include any subsequent
22 documents authorized or contemplated by the original document
23 such as periodic statements, sales slips or invoices representing
24 purchases made pursuant to a credit card agreement, a retail
25 installment contract or account or other revolving sales or loan
26 account, memoranda of purchases in an add-on sale, or refinancing
27 of a purchase as provided by, or pursuant to, the original document.

28 The term “contract” or “agreement” does not include a home
29 improvement contract as defined in Sections 7151.2 and 7159 of
30 the Business and Professions Code, nor does it include plans,
31 specifications, description of work to be done and materials to be
32 used, or collateral security taken or to be taken for the retail buyer’s
33 obligation contained in a contract for the installation of goods by
34 a contractor licensed pursuant to Chapter 9 (commencing with
35 Section 7000) of Division 3 of the Business and Professions Code,
36 if the home improvement contract or installation contract is
37 otherwise a part of a contract described in subdivision (a).

38 Matters ordinarily incorporated by reference in contracts or
39 agreements as described in paragraph (3) of subdivision (a),
40 including but not limited to, rules and regulations governing a

1 tenancy and inventories of furnishings to be provided by the
2 person described in ~~subsection~~ *subdivision* (a), are not included in
3 the term “contract” or “agreement.”

4 (e) This section ~~shall~~ *does* not apply to any person engaged in
5 a trade or business who negotiates primarily in the Spanish
6 language as described by subdivision (a) if the party with whom
7 he or she is negotiating is a buyer of goods or services, or receives
8 a loan or extension of credit, or enters an agreement obligating
9 himself or herself as a tenant, lessee, or sublessee, or similarly
10 obligates himself or herself by contract or lease, and such party
11 negotiates the terms of the contract, lease, or other obligation
12 through his or her own interpreter.

13 As used in this subdivision, “his or her own interpreter” means
14 a person, not a minor, able to speak fluently and read with full
15 understanding the English and Spanish languages, and who is not
16 employed by, or whose service is made available through, the
17 person engaged in the trade or business.

18 (f) The terms of the contract or agreement which is executed in
19 *the English language* shall determine the rights and obligations of
20 the parties. However, the Spanish-language translation of the
21 contract or the disclosures required by subdivision (b) shall be
22 admissible in evidence only to show that no contract was entered
23 into because of a substantial difference in the material terms and
24 conditions of the contract and the translation.

25 (g) Upon a failure to comply with the provisions of this section,
26 the person aggrieved may rescind the contract or agreement in the
27 manner provided by this chapter. When the contract for a
28 consumer credit sale or consumer lease which has been sold and
29 assigned to a financial institution is rescinded pursuant to this
30 subdivision, the consumer shall make restitution to and have
31 restitution made by the person with whom he *or she* made the
32 contract, and shall give notice of rescission to the assignee.
33 Notwithstanding that the contract was assigned without recourse,
34 the assignment shall be deemed rescinded and the assignor shall
35 promptly repurchase the contract from the assignee.

36 SEC. 39. Section 1748.13 of the Civil Code is amended to
37 read:

38 1748.13. (a) A credit card issuer shall, with each billing
39 statement provided to a cardholder in this state, provide the
40 following on the front of the first page of the billing statement in

1 in type no smaller than that required for any other required
2 disclosure, but in no case in less than 8-point capitalized type:

3 (1) A written statement in the following form: “Minimum
4 Payment Warning: Making only the minimum payment will
5 increase the interest you pay and the time it takes to repay your
6 balance.”

7 (2) Either of the following:

8 (A) A written statement in the form of and containing the
9 information described in clause (i) or (ii), as applicable, as follows:

10 (i) A written three-line statement, as follows:

11
12 “A one thousand dollar (\$1,000) balance will take 17 years and
13 three months to pay off at a total cost of two thousand five hundred
14 ninety dollars and thirty-five cents (\$2,590.35).

15
16 A two thousand five hundred dollar (\$2,500) balance will take 30
17 years and three months to pay off at a total cost of seven thousand
18 seven hundred thirty-three dollars and forty-nine cents
19 (\$7,733.49).

20
21 A five thousand dollar (\$5,000) balance will take 40 years and two
22 months to pay off at a total cost of sixteen thousand three hundred
23 five dollars and thirty-four cents (\$16,305.34).

24
25 This information is based on an annual percentage rate of 17
26 percent and a minimum payment of 2 percent or ten dollars (\$10),
27 whichever is greater.”

28
29 In the alternative, a credit card issuer may provide this
30 information for the three specified amounts at the annual
31 percentage rate and required minimum payment which are
32 applicable to the cardholder’s account. The statement provided
33 shall be immediately preceded by the statement required by
34 paragraph (1).

35 (ii) Instead of the information required by clause (i), retail
36 credit card issuers shall provide a written three-line statement to
37 read, as follows:

38
39 “A two hundred fifty dollar (\$250) balance will take two years and
40 eight months to pay off a total cost of three hundred twenty-five

1 dollars and twenty-four cents (\$325.24).

2
3 A five hundred dollar (\$500) balance will take four years and five
4 months to pay off at a total cost of seven hundred nine dollars and
5 ninety cents (\$709.90).

6
7 A seven hundred fifty dollar (\$750) balance will take five years
8 and five months to pay off at a total cost of one thousand
9 ninety-four dollars and forty-nine cents (\$1,094.49).

10
11 This information is based on an annual percentage rate of 21
12 percent and a minimum payment of 5 percent or ten dollars (\$10),
13 whichever is greater.”

14
15 In the alternative, a retail credit card issuer may provide this
16 information for the three specified amounts at the annual
17 percentage rate and required minimum payment which are
18 applicable to the cardholder’s account. The statement provided
19 shall be immediately preceded by the statement required by
20 paragraph (1). A retail credit card issuer is not required to provide
21 this statement if the cardholder has a balance of less than five
22 hundred dollars (\$500).

23 (B) A written statement providing individualized information
24 indicating an estimate of the number of years and months and the
25 approximate total cost to pay off the entire balance due on an
26 open-end credit card account if the cardholder were to pay only the
27 minimum amount due on the open-ended account based upon the
28 terms of the credit agreement. For purposes of this subparagraph
29 only, if the account is subject to a variable rate, the creditor may
30 make disclosures based on the rate for the entire balance as of the
31 date of the disclosure and indicate that the rate may vary. In
32 addition, the cardholder shall be provided with referrals or, in the
33 alternative, with the “800” telephone number of the National
34 Foundation for Credit Counseling through which the cardholder
35 can be referred, to credit counseling services in, or closest to, the
36 cardholder’s county of residence. The credit counseling service
37 shall be in good standing with the National Foundation for Credit
38 Counseling or accredited by the Council on Accreditation for
39 Children and Family Services. The creditor is required to provide,
40 or continue to provide, the information required by this paragraph

1 only if the cardholder has not paid more than the minimum
2 payment for six consecutive months, after July 1, 2002.

3 (3) (A) A written statement in the following form: “For an
4 estimate of the time it would take to repay your balance, making
5 only minimum payments, and the total amount of those payments,
6 call this toll-free telephone number: (Insert toll-free telephone
7 number).” This statement shall be provided immediately
8 following the statement required by subparagraph (A) of
9 paragraph (2). A credit card issuer is not required to provide this
10 statement if the disclosure required by subparagraph (B) of
11 paragraph (2) has been provided.

12 (B) The toll-free telephone number shall be available between
13 the hours of 8 a.m. and 9 p.m., Pacific standard time, seven days
14 a week, and shall provide consumers with the opportunity to speak
15 with a person, rather than a recording, from whom the information
16 described in subparagraph (A) may be obtained.

17 (C) The Department of Financial Institutions shall establish a
18 detailed table illustrating the approximate number of months that
19 it would take and the approximate total cost to repay an
20 outstanding balance if the consumer pays only the required
21 minimum monthly payments and if no other additional charges or
22 fees are incurred on the account, such as additional extension of
23 credit, voluntary credit insurance, late fees, or dishonored check
24 fees by assuming all of the following:

25 (i) A significant number of different annual percentage rates.

26 (ii) A significant number of different account balances, with
27 the difference between sequential examples of balances being no
28 greater than one hundred dollars (\$100).

29 (iii) A significant number of different minimum payment
30 amounts.

31 (iv) That only minimum monthly payments are made and no
32 additional charges or fees are incurred on the account, such as
33 additional extensions or credit, voluntary credit insurance, late
34 fees, or dishonored check fees.

35 (D) A creditor that receives a request for information described
36 in subparagraph (A) from a cardholder through the toll-free
37 telephone number disclosed under subparagraph (A), or who is
38 required to provide the information required by subparagraph (B)
39 of paragraph (2), may satisfy its obligation to disclose an estimate
40 of the time it would take and the approximate total cost to repay

1 the cardholder's balance by disclosing only the information set
2 forth in the table described in subparagraph (C). Including the full
3 chart along with a billing statement does not satisfy the obligation
4 under this section.

5 (b) For purposes of this section:

6 (1) "Credit card" has the same meaning as in paragraph (2) of
7 subdivision (a) of Section 1748.12.

8 (2) "Open-end credit card account" means an account in which
9 consumer credit is granted by a creditor under a plan in which the
10 creditor reasonably contemplates repeated transactions, the
11 creditor may impose a finance charge from time to time on an
12 unpaid balance, and the amount of credit that may be extended to
13 the consumer during the term of the plan is generally made
14 available to the extent that any outstanding balance is repaid and
15 up to any limit set by the creditor.

16 (3) "Retail credit card" means a credit card is issued by or on
17 behalf of a retailer, or a private label credit card that is limited to
18 customers of a specific retailer.

19 (c) (1) This section shall not apply in any billing cycle in which
20 the account agreement requires a minimum payment of at least 10
21 percent of the outstanding balance.

22 (2) This section shall not apply in any billing cycle in which
23 finance charges are not imposed.

24 SEC. 40. Section 1785.11 of the Civil Code is amended to
25 read:

26 1785.11. (a) A consumer credit reporting agency shall
27 furnish a consumer credit report only under the following
28 circumstances:

29 (1) In response to the order of a court having jurisdiction to
30 issue an order.

31 (2) In accordance with the written instructions of the consumer
32 to whom it relates.

33 (3) To a person whom it has reason to believe:

34 (A) Intends to use the information in connection with a credit
35 transaction, or entering or enforcing an order of a court of
36 competent jurisdiction for support, involving the consumer as to
37 whom the information is to be furnished and involving the
38 extension of credit to, or review or collection of an account of, the
39 consumer; or

1 (B) Intends to use the information for employment purposes;

2 or

3 (C) Intends to use the information in connection with the
4 underwriting of insurance involving the consumer, or for
5 insurance claims settlements; or

6 (D) Intends to use the information in connection with a
7 determination of the consumer's eligibility for a license or other
8 benefit granted by a governmental instrumentality required by law
9 to consider the applicant's financial responsibility or status; or

10 (E) Intends to use the information in connection with the hiring
11 of a dwelling unit, as defined in subdivision (c) of Section 1940;

12 or

13 (F) Otherwise has a legitimate business need for the
14 information in connection with a business transaction involving
15 the consumer.

16 (b) A consumer credit reporting agency may furnish
17 information for purposes of a credit transaction specified in
18 subparagraph (A) of paragraph (3) of subdivision (a), where it is
19 a credit transaction that is not initiated by the consumer, only under
20 the circumstances specified in paragraph (1) or (2), as follows:

21 (1) The consumer authorizes the consumer credit reporting
22 agency to furnish the consumer credit report to the person.

23 (2) The proposed transaction involves a firm offer of credit to
24 the consumer, the consumer credit reporting agency has complied
25 with subdivision (d), and the consumer has not elected pursuant to
26 paragraph (1) of subdivision (d) to have the consumer's name
27 excluded from lists of names provided by the consumer credit
28 reporting agency for purposes of reporting in connection with the
29 potential issuance of firm offers of credit. A consumer credit
30 reporting agency may provide only the following information
31 pursuant to this paragraph:

32 (A) The name and address of the consumer.

33 (B) Information pertaining to a consumer that is not identified
34 or identifiable with a particular consumer.

35 (c) Except as provided in paragraph ~~(2)~~ (3) of subdivision (a)
36 of Section 1785.15, a consumer credit reporting agency shall not
37 furnish to any person a record of inquiries solely resulting from
38 credit transactions that are not initiated by the consumer.

39 (d) (1) A consumer may elect to have his or her name and
40 address excluded from any list provided by a consumer credit

1 reporting agency pursuant to paragraph (2) of subdivision (b) by
2 notifying the consumer credit reporting agency, by telephone or in
3 writing, through the notification system maintained by the
4 consumer credit reporting agency pursuant to subdivision (e), that
5 the consumer does not consent to any use of consumer credit
6 reports relating to the consumer in connection with any transaction
7 that is not initiated by the consumer.

8 (2) An election of a consumer under paragraph (1) shall be
9 effective with respect to a consumer credit reporting agency, and
10 any affiliate of the consumer credit reporting agency, on the date
11 on which the consumer notifies the consumer credit reporting
12 agency.

13 (3) An election of a consumer under paragraph (1) shall
14 terminate and be of no force or effect following notice from the
15 consumer to the consumer credit reporting agency, through the
16 system established pursuant to subdivision (e), that the election is
17 no longer effective.

18 (e) Each consumer credit reporting agency that furnishes a
19 prequalifying report pursuant to subdivision (b) in connection
20 with a credit transaction not initiated by the consumer shall
21 establish and maintain a notification system, including a toll-free
22 telephone number, that permits any consumer, with appropriate
23 identification and for which the consumer credit reporting agency
24 has a file, to notify the consumer credit reporting agency of the
25 consumer's election to have the consumer's name removed from
26 any list of names and addresses provided by the consumer credit
27 reporting agency, and by any affiliated consumer credit reporting
28 agency, pursuant to paragraph (2) of subdivision (b). Compliance
29 with the requirements of this subdivision by a consumer credit
30 reporting agency shall constitute compliance with those
31 requirements by any affiliate of that consumer credit reporting
32 agency.

33 (f) Each consumer credit reporting agency that compiles and
34 maintains files on consumers on a nationwide basis shall establish
35 and maintain a notification system under paragraph (1) of
36 subdivision (e) jointly with its affiliated consumer credit reporting
37 agencies.

38 SEC. 41. Section 1785.11.2 of the Civil Code is amended to
39 read:

1 1785.11.2. (a) A consumer may elect to place a security
2 freeze on his or her credit report by making a request in writing by
3 certified mail to a consumer credit reporting agency. “Security
4 freeze” means a notice placed in a consumer’s credit report, at the
5 request of the consumer and subject to certain exceptions, that
6 prohibits the consumer credit reporting agency from releasing the
7 consumer’s credit report or any information from it without the
8 express authorization of the consumer. When a security freeze is
9 in place, information from a consumer’s credit report shall not be
10 released to a third party without prior express authorization from
11 the consumer. This subdivision does not prevent a consumer credit
12 reporting agency from advising a third party that a security freeze
13 is in effect with respect to the consumer’s credit report.

14 (b) A consumer credit reporting agency shall place a security
15 freeze on a consumer’s credit report no later than five business
16 days after receiving a written request from the consumer.

17 (c) The consumer credit reporting agency shall send a written
18 confirmation of the security freeze to the consumer within 10
19 business days and shall provide the consumer with a unique
20 personal identification number or password to be used by the
21 consumer when providing authorization for the release of his or
22 her credit for a specific party or period of time.

23 (d) If the consumer wishes to allow his or her credit report to
24 be accessed for a specific party or period of time while a freeze is
25 in place, he or she shall contact the consumer credit reporting
26 agency, request that the freeze be temporarily lifted, and provide
27 the following:

28 (1) Proper identification, as defined in subdivision (c) of
29 Section 1785.15.

30 (2) The unique personal identification number or password
31 provided by the credit reporting agency pursuant to subdivision
32 (c).

33 (3) The proper information regarding the third party who is to
34 receive the credit report or the time period for which the report
35 shall be available to users of the credit report.

36 (e) A consumer credit reporting agency that receives a request
37 from a consumer to temporarily lift a freeze on a credit report
38 pursuant to subdivision (d), shall comply with the request no later
39 than three business days after receiving the request.



1 (f) A consumer credit reporting agency may develop
2 procedures involving the use of telephone, fax, the Internet, or
3 other electronic media to receive and process a request from a
4 consumer to temporarily lift a freeze on a credit report pursuant to
5 subdivision (d) in an expedited manner.

6 (g) A consumer credit reporting agency shall remove or
7 temporarily lift a freeze placed on a consumer's credit report only
8 in *either of* the following cases:

9 (1) Upon consumer request, pursuant to subdivision (d) or (j).

10 (2) If the consumer's credit report was frozen due to a material
11 misrepresentation of fact by the consumer. If a consumer credit
12 reporting agency intends to remove a freeze upon a consumer's
13 credit report pursuant to this paragraph, the consumer credit
14 reporting agency shall notify the consumer in writing prior to
15 removing the freeze on the consumer's credit report.

16 (h) If a third party requests access to a consumer credit report
17 on which a security freeze is in effect, and this request is in
18 connection with an application for credit or any other use, and the
19 consumer does not allow his or her credit report to be accessed for
20 that specific party or period of time, the third party may treat the
21 application as incomplete.

22 (i) If a consumer requests a security freeze, the consumer credit
23 reporting agency shall disclose the process of placing and
24 temporarily lifting a freeze, and the process for allowing access to
25 information from the consumer's credit report for a specific party
26 or period of time while the freeze is in place.

27 (j) A security freeze shall remain in place until the consumer
28 requests that the security freeze be removed. A consumer credit
29 reporting agency shall remove a security freeze within three
30 business days of receiving a request for removal from the
31 consumer, who provides both of the following:

32 (1) Proper identification, as defined in subdivision (c) of
33 Section 1785.15.

34 (2) The unique personal identification number or password
35 provided by the credit reporting agency pursuant to subdivision
36 (c).

37 (k) A consumer credit reporting agency shall require proper
38 identification, as defined in subdivision (c) of Section 1785.15, of
39 the person making a request to place or remove a security freeze.

1 ~~(l) The provisions of this~~ This section ~~do~~ does not apply to the
2 use of a consumer *credit* report by the following:

3 (1) A person or entity, or a subsidiary, affiliate, or agent of that
4 person or entity, or an assignee of a financial obligation owing by
5 the consumer to that person or entity, or a prospective assignee of
6 a financial obligation owing by the consumer to that person or
7 entity in conjunction with the proposed purchase of the financial
8 obligation, with which the consumer has or had prior to
9 assignment an account or contract, including a demand deposit
10 account, or to whom the consumer issued a negotiable instrument,
11 for the purposes of reviewing the account or collecting the
12 financial obligation owing for the account, contract, or negotiable
13 instrument. For purposes of this paragraph, “reviewing the
14 account” includes activities related to account maintenance,
15 monitoring, credit line increases, and account upgrades and
16 enhancements.

17 (2) A subsidiary, affiliate, agent, assignee, or prospective
18 assignee of a person to whom access has been granted under
19 subdivision (d) of Section 1785.11.2 for purposes of facilitating
20 the extension of credit or other permissible use.

21 (3) Any state or local agency, law enforcement agency, trial
22 court, or private collection agency acting pursuant to a court order,
23 warrant, or subpoena.

24 (4) A child support agency acting pursuant to Chapter 2 of
25 Division 17 of the Family Code or Title IV-D of the Social Security
26 Act (42 U.S.C. et seq.).

27 (5) The State Department of Health Services or its agents or
28 assigns acting to investigate Medi-Cal fraud.

29 (6) The Franchise Tax Board or its agents or assigns acting to
30 investigate or collect delinquent taxes or unpaid court orders or to
31 fulfill any of its other statutory responsibilities.

32 (7) The use of credit information for the purposes of
33 prescreening as provided for by the federal Fair Credit Reporting
34 Act.

35 (m) Nothing in this act shall prevent a consumer credit
36 reporting agency from charging a reasonable fee to a consumer
37 who elects to freeze, remove the freeze, or temporarily lift the
38 freeze regarding access to a consumer credit report, except that a
39 consumer *credit* reporting agency may not charge a fee to a victim
40 of identity theft who has submitted a valid police report or valid

1 Department of Motor Vehicles investigative report that alleges a
2 violation of Section 530.5 of the Penal Code.

3 SEC. 42. Section 1798.85 of the Civil Code is amended to
4 read:

5 1798.85. (a) A person or entity, not including a state or local
6 agency, shall not do any of the following:

7 (1) Publicly post or publicly display in any manner an
8 individual's social security number. "Publicly post" or "publicly
9 display" means to intentionally communicate or otherwise make
10 available to the general public.

11 (2) Print an individual's social security number on any card
12 required for the individual to access products or services provided
13 by the person or entity.

14 (3) Require an individual to transmit his or her social security
15 number over the Internet, unless the connection is secure or the
16 social security number is encrypted.

17 (4) Require an individual to use his or her social security
18 number to access an Internet Web site, unless a password or unique
19 personal identification number or other authentication device is
20 also required to access the Web site.

21 (5) Print an individual's social security number on any
22 materials that are mailed to the individual, unless state or federal
23 law requires the social security number to be on the document to
24 be mailed. Notwithstanding this provision, applications and forms
25 sent by mail may include social security numbers.

26 (b) Except as provided in subdivision (c), subdivision (a)
27 applies only to the use of social security numbers on or after July
28 1, 2002.

29 (c) Except as provided in subdivision (f), a person or entity, not
30 including a state or local agency, that has used, prior to July 1,
31 2002, an individual's social security number in a manner
32 inconsistent with subdivision (a), may continue using that
33 individual's social security number in that manner on or after July
34 1, 2002, if all of the following conditions are met:

35 (1) The use of the social security number is continuous. If the
36 use is stopped for any reason, subdivision (a) shall apply.

37 (2) The individual is provided an annual disclosure,
38 commencing in the year 2002, that informs the individual that he
39 or she has the right to stop the use of his or her social security
40 number in a manner prohibited by subdivision (a).

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subdivision (a) shall be implemented within 30 days of the receipt of the request. There shall be no fee or charge for implementing the request.

(4) A person or entity, not including a state or local agency, shall not deny services to an individual because the individual makes a written request pursuant to this subdivision.

(d) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(e) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150), or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

(f) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, or a contractor as defined in Section 56.05, this section shall become operative in the following manner:

(A) On or before January 1, 2003, the entities listed in paragraph (1) of subdivision (f) shall comply with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain to individual policyholders.

(B) On or before January 1, 2004, the entities listed in paragraph (1) of subdivision (f) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain to new individual policyholders and new employer groups issued on or after January 1, 2004.

(C) On or before July 1, 2004, the entities listed in paragraph (1) of subdivision (f) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) for all policyholders and for all enrollees of the Healthy Families and Medi-Cal programs, except that individual and employer group policyholders in existence

prior to January 1, 2004, shall comply upon their renewal date, but no later than July 1, 2005.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, or a contractor shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or before the dates specified in this section.

(3) Notwithstanding paragraph (2), the Director of the Department of Managed Health Care, pursuant to the authority granted under Section 1346 of the Health and Safety Code, or the Insurance Commissioner, pursuant to the authority granted under Section 12921 of the Insurance Code, and upon a determination of good cause, may grant extensions not to exceed six months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(g) If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor, as those terms are defined in Section 56.05, that complies with the federal law shall be deemed in compliance with this section.

SEC. 43. Section 1936 of the Civil Code is amended to read: 1936. (a) For the purpose of this section, the following definitions shall apply:

(1) "Rental company" means any person or entity in the business of renting passenger vehicles to the public.

(2) "Renter" means any person in any manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(3) "Authorized driver" means (A) the renter, (B) the renter's spouse if that person is a licensed driver and satisfies the rental company's minimum age requirement, (C) the renter's employer or coworker if they are engaged in business activity with the renter, are licensed drivers, and satisfy the rental company's minimum age requirement, and (D) any person expressly listed by the rental company on the renter's contract as an authorized driver.

1 (A) “Customer facility charge” means a fee required by an
2 airport to be collected by a rental company from a renter for any
3 of the following purposes:

4 (i) The fee shall be used to finance, design, and construct
5 consolidated airport car rental facilities.

6 (ii) The fee shall be used to finance, design, construct, and
7 provide common use transportation systems that move passengers
8 between airport terminals and those consolidated car rental
9 facilities.

10 (B) The aggregate amount to be collected shall not exceed the
11 reasonable costs, as determined by an independent audit paid for
12 by the airport, to finance, design, and construct those facilities.
13 Copies of the audit shall be provided to the Assembly and Senate
14 Committees on Judiciary and Committees on Transportation. In
15 the case of a transportation system, the audit shall also consider the
16 reasonable costs of providing the transit system or busing network.
17 ~~At the Burbank Airport, and at all other airports~~ *any airport*, the
18 fees designated as a Customer Facility Charge may not be used to
19 pay for terminal expansion, gate expansion, runway expansion,
20 changes in hours of operation, or changes in the number of flights
21 arriving or departing from the airport.

22 (C) The authorization given pursuant to this section for an
23 airport to impose a customer facility charge shall become
24 inoperative when the bonds used for financing are paid.

25 (5) “Damage waiver” means a rental company’s agreement
26 not to hold a renter liable for all or any portion of any damage or
27 loss related to the rented vehicle, any loss of use of the rented
28 vehicle, or any storage, impound, towing, or administrative
29 charges.

30 (6) “Estimated time for replacement” means the number of
31 hours of labor, or fraction thereof, needed to replace damaged
32 vehicle parts as set forth in collision damage estimating guides
33 generally used in the vehicle repair business and commonly known
34 as “crash books.”

35 (7) “Estimated time for repair” means a good faith estimate of
36 the reasonable number of hours of labor, or fraction thereof,
37 needed to repair damaged vehicle parts.

38 (8) “Passenger vehicle” means a passenger vehicle as defined
39 in Section 465 of the Vehicle Code.



1 (b) Except as limited by subdivision (c), a rental company and
2 a renter may agree that the renter will be responsible for no more
3 than all of the following:

4 (1) Physical or mechanical damage to the rented vehicle up to
5 its fair market value, as determined in the customary market for the
6 sale of that vehicle, resulting from collision regardless of the cause
7 of the damage.

8 (2) Loss due to theft of the rented vehicle up to its fair market
9 value, as determined in the customary market for the sale of that
10 vehicle, provided that the rental company establishes by clear and
11 convincing evidence that the renter or the authorized driver failed
12 to exercise ordinary care while in possession of the vehicle. In
13 addition, the renter shall be presumed to have no liability for any
14 loss due to theft if (A) an authorized driver has possession of the
15 ignition key furnished by the rental company or an authorized
16 driver establishes that the ignition key furnished by the rental
17 company was not in the vehicle at the time of the theft, and (B) an
18 authorized driver files an official report of the theft with the police
19 or other law enforcement agency within 24 hours of learning of the
20 theft and reasonably cooperates with the rental company and the
21 police or other law enforcement agency in providing information
22 concerning the theft. The presumption set forth in this paragraph
23 is a presumption affecting the burden of proof which the rental
24 company may rebut by establishing that an authorized driver
25 committed, or aided and abetted the commission of, the theft.

26 (3) Physical damage to the rented vehicle up to its fair market
27 value, as determined in the customary market for the sale of that
28 vehicle, resulting from vandalism occurring after, or in connection
29 with, the theft of the rented vehicle; however, the renter shall have
30 no liability for any damage due to vandalism if the renter would
31 have no liability for theft pursuant to paragraph (2).

32 (4) Physical damage to the rented vehicle up to a total of five
33 hundred dollars (\$500) resulting from vandalism unrelated to the
34 theft of the rented vehicle.

35 (5) Actual charges for towing, storage, and impound fees paid
36 by the rental company if the renter is liable for damage or loss.

37 (6) An administrative charge which shall include the cost of
38 appraisal and all other costs and expenses incident to the damage,
39 loss, repair, or replacement of the rented vehicle.

(c) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle shall not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts which shall not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total estimated cost for parts and labor is more than one hundred dollars (\$100) up to and including five hundred dollars (\$500), (B) one hundred dollars (\$100) if the total estimated cost for parts and labor exceeds five hundred dollars (\$500) up to and including one

1 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
2 dollars (\$150) if the total estimated cost for parts and labor exceeds
3 one thousand five hundred dollars (\$1,500). No administrative
4 charge shall be imposed if the total estimated cost of parts and
5 labor is one hundred dollars (\$100) or less.

6 (d) (1) The total amount of an authorized driver's liability to
7 the rental company, if any, for damage occurring during the
8 authorized driver's operation of the rented vehicle shall not exceed
9 the amount of the renter's liability under subdivision (c).

10 (2) A rental company shall not recover from the renter or other
11 authorized driver an amount exceeding the renter's liability under
12 subdivision (c).

13 (3) A claim against a renter resulting from damage or loss,
14 excluding loss of use, to a rental vehicle shall be reasonably and
15 rationally related to the actual loss incurred. A rental company
16 shall mitigate damages where possible and may not assert or
17 collect any claim for physical damage which exceeds the actual
18 costs of the repairs performed or the estimated cost of repairs, if
19 the rental company chooses not to repair the vehicle, including all
20 discounts and price reductions. However, if the vehicle is a total
21 loss vehicle, the claim shall not exceed the total loss vehicle value
22 established in accordance with procedures that are customarily
23 used by insurance companies when paying claims on total loss
24 vehicles, less the proceeds from salvaging the vehicle, if those
25 proceeds are retained by the rental company.

26 (4) If insurance coverage exists under the renter's applicable
27 personal or business insurance policy and the coverage is
28 confirmed during regular business hours, the renter may require
29 that the rental company submit any claims to the renter's
30 applicable personal or business insurance carrier. The rental
31 company shall not make any written or oral representations that it
32 will not present claims or negotiate with the renter's insurance
33 carrier. For purposes of this paragraph, confirmation of coverage
34 includes telephone confirmation from insurance company
35 representatives during regular business hours. Upon request of the
36 renter and after confirmation of coverage, the amount of claim
37 shall be resolved between the insurance carrier and the rental
38 company. The renter shall remain responsible for payment to the
39 rental car company for any loss sustained that the renter's
40 applicable personal or business insurance policy does not cover.

(5) A rental company shall not recover from the renter or other authorized driver for any item described in subdivision (b) to the extent the rental company obtains recovery from any other person.

(6) This section applies only to the maximum liability of a renter or other authorized driver to the rental company resulting from damage to the rented vehicle and not to the liability of any other person.

(e) (1) Except as provided in subdivision (f), every damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for any damage, loss, loss of use, or any cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to any damage waiver is void and unenforceable.

(f) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside of the United States.

(3) Any authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(g) (1) A rental company which offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract: (A) the nature of the renter's liability, e.g., liability for all collision damage regardless of cause,

(B) the extent of the renter's liability, e.g., liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (f), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides damage waiver shall, on that part of the contract where the renter indicates his or her acceptance or declination of the damage waiver, indicate that the purchase of the damage waiver is optional.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

**NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
AND OPTIONAL DAMAGE WAIVER**

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list

1 exceptions).

2

3 (A) When the above notice is printed in the contract or
4 contractholder, the following shall be printed immediately
5 following the notice:

6

7 “The cost of an optional damage waiver is \$_____ for every (day
8 or week).”

9

10 (B) When the above notice appears on a sign, the following
11 shall appear immediately adjacent to the notice:

12

13 “The cost of an optional damage waiver is \$_____ to \$_____ for
14 every (day or week), depending upon the vehicle rented.”

15

16 (h) Notwithstanding any other provision of law, a rental
17 company may sell a damage waiver subject to the following rate
18 limitations for each full or partial 24-hour rental day for the
19 damage waiver.

20 (1) For rental vehicles that the rental company designates as an
21 “economy car,” “subcompact car,” “compact car,” or any other
22 term having similar meaning when offered for rental, or any other
23 vehicle having a manufacturer’s suggested retail price of nineteen
24 thousand dollars (\$19,000) or less, the rate may not exceed nine
25 dollars (\$9).

26 (2) For rental vehicles that have a manufacturer’s suggested
27 retail price from nineteen thousand one dollars (\$19,001) to
28 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
29 inclusive, and that is also either a vehicle of the next year’s model
30 year or not older than the previous year’s model year, the rate may
31 not exceed fifteen dollars (\$15). For those rental vehicles older
32 than the previous year’s model year, the rate may not exceed nine
33 dollars (\$9).

34 (i) On or after January 1, 2003, the manufacturer’s suggested
35 retail prices described in subdivision (h) shall be adjusted annually
36 to reflect changes from the previous year in the Consumer Price
37 Index. For the purposes of this section, “Consumer Price Index”
38 means the United States Consumer Price Index for All Urban
39 Consumers, for all items.



1 (j) A rental company which disseminates in this state an
2 advertisement containing a rental rate shall include in that
3 advertisement a clearly readable statement of the charge for
4 damage waiver and a statement that damage waiver is optional.

5 (k) (1) A rental company shall not require the purchase of a
6 damage waiver, optional insurance, or any other optional good or
7 service.

8 (2) A rental company shall not engage in any unfair, deceptive,
9 or coercive conduct to induce a renter to purchase damage waiver,
10 optional insurance, or any other optional good or service,
11 including conduct such as, but not limited to, refusing to honor the
12 renter's reservation, limiting the availability of vehicles, requiring
13 a deposit, or debiting or blocking the renter's credit card account
14 for a sum equivalent to a deposit if the renter declines to purchase
15 damage waiver, optional insurance, or any other optional good or
16 service.

17 (l) (1) In the absence of express permission granted by the
18 renter subsequent to damage to, or loss of, the vehicle, a rental
19 company shall not seek to recover any portion of any claim arising
20 out of damage to, or loss of, the rented vehicle by processing a
21 credit card charge or causing any debit or block to be placed on the
22 renter's credit card account.

23 (2) A rental company shall not engage in any unfair, deceptive,
24 or coercive tactics in attempting to recover or in recovering on any
25 claim arising out of damage to, or loss of, the rented vehicle.

26 (m) (1) A customer facility charge may be collected by a rental
27 company under the following circumstances:

28 (A) Collection of the fee by the rental company is required by
29 an airport operated by a city, a county, a city and county, a joint
30 powers authority, or a special district.

31 (B) The fee is calculated on a per-contract basis.

32 (C) The fee is a user fee, not a tax imposed upon real property
33 or an incidence of property ownership under Article XIII D of the
34 California Constitution.

35 (D) Except as otherwise provided in subparagraph (E), the fee
36 shall be ten dollars (\$10) per contract.

37 (E) If the fee imposed by the airport is for both a consolidated
38 rental car facility and a common use transportation system, the fee
39 collected from customers of on-airport rental car companies shall
40 be ten dollars (\$10), but the fee imposed on customers of

1 off-airport rental car companies who are transported on the
2 common use transportation system is proportionate to the costs of
3 the common use transportation system only. The fee is uniformly
4 applied to each class of on-airport or off-airport customers,
5 provided the airport requires off-airport customers to use the
6 common use transportation system.

7 (F) Revenues collected from the fee do not exceed the
8 reasonable costs of financing, designing, constructing, or
9 operating the facility or services and may not be used for any other
10 purpose.

11 (G) The fee is separately identified on the rental agreement.

12 (H) This paragraph does not apply to airports whose fees are
13 governed by Section 1936.5 of the Civil Code, Section 50474.1 of
14 the Government Code, or Section 57.5 of the San Diego Unified
15 Port District Act.

16 (2) Notwithstanding any other provision of law, including, but
17 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
18 (commencing with Section 7280), inclusive, of Division 2 of the
19 Revenue and Taxation Code, the fees collected pursuant to this
20 section, or any other law whereby a local agency operating an
21 airport requires a rental car company to collect a facility financing
22 fee from its customers, shall not be subject to sales, use, or
23 transaction taxes.

24 (n) (1) A rental company shall only advertise, quote, and
25 charge a rental rate that includes the entire amount except taxes,
26 a customer facility charge, if any, and a mileage charge, if any,
27 which a renter must pay to hire or lease the vehicle for the period
28 of time to which the rental rate applies. A rental company shall not
29 charge in addition to the rental rate, taxes, a customer facility
30 charge, if any, and a mileage charge, if any, any fee which must be
31 paid by the renter as a condition of hiring or leasing the vehicle,
32 such as, but not limited to, required fuel or airport surcharges other
33 than customer facility charges, nor any fee for transporting the
34 renter to the location where the rented vehicle will be delivered to
35 the renter.

36 (2) In addition to the rental rate, taxes, customer facility
37 charges, if any, and mileage charges, if any, a rental company may
38 charge for an item or service provided in connection with a
39 particular rental transaction if the renter could have avoided
40 incurring the charge by choosing not to obtain or utilize the

1 optional item or service. Items and services for which the rental
2 company may impose an additional charge, include, but are not
3 limited to, optional insurance and accessories requested by the
4 renter, service charges incident to the renter's optional return of the
5 vehicle to a location other than the location where the vehicle was
6 hired or leased, and charges for refueling the vehicle at the
7 conclusion of the rental transaction in the event the renter did not
8 return the vehicle with as much fuel as was in the fuel tank at the
9 beginning of the rental. A rental company also may impose an
10 additional charge based on reasonable age criteria established by
11 the rental company.

12 (3) A rental company shall not charge any fee for authorized
13 drivers in addition to the rental charge for an individual renter.

14 (4) If a rental company states a rental rate in print advertisement
15 or in a telephonic, in-person, or computer-transmitted quotation,
16 the rental company shall clearly disclose in that advertisement or
17 quotation the terms of any mileage conditions relating to the
18 advertised or quoted rental rate, including, but not limited to, to the
19 extent applicable, the amount of mileage and gas charges, the
20 number of miles for which no charges will be imposed, and a
21 description of geographic driving limitations within the United
22 States and Canada.

23 (5) (A) When a rental rate is stated in an advertisement,
24 quotation, or reservation in connection with a car rental at an
25 airport where a customer facility charge is imposed, the rental
26 company shall clearly disclose the existence and amount of the
27 customer facility charge. For the purposes of this subparagraph,
28 advertisements include radio, television, other electronic media,
29 and print advertisements. For purposes of this subparagraph,
30 quotations and reservations include those that are telephonic,
31 in-person, and computer-transmitted. If the rate advertisement is
32 intended to include transactions at more than one airport imposing
33 a customer facility charge, a range of fees may be stated in the
34 advertisement. However, all rate advertisements that include car
35 rentals at airport destinations shall clearly and conspicuously
36 include a toll-free telephone number whereby a customer can be
37 told the specific amount of the customer facility charge to which
38 the customer will be obligated.

39 (B) If any person or entity other than a rental car company,
40 including a passenger carrier or a seller of travel services,

1 advertises or quotes a rate for a car rental at an airport where a
2 customer facility charge is imposed, that person or entity shall,
3 provided they are provided with information about the existence
4 and amount of the fee, to the extent not specifically prohibited by
5 federal law, clearly disclose the existence and amount of the fee in
6 any telephonic, in-person, or computer-transmitted quotation at
7 the time of making an initial quotation of a rental rate and at the
8 time of making a reservation of a rental car. If a rental car company
9 provides the person or entity with rate and customer facility charge
10 information, the rental car company shall not be responsible for the
11 failure of that person or entity to comply with this subparagraph
12 when quoting or confirming a rate to a third person or entity.

13 (6) If a rental company delivers a vehicle to a renter at a
14 location other than the location where the rental company
15 normally carries on its business, the rental company shall not
16 charge the renter any amount for the rental for the period before
17 the delivery of the vehicle. If a rental company picks up a rented
18 vehicle from a renter at a location other than the location where the
19 rental company normally carries on its business, the rental
20 company shall not charge the renter any amount for the rental for
21 the period after the renter notifies the rental company to pick up
22 the vehicle.

23 (o) A renter may bring an action against a rental company for
24 the recovery of damages and appropriate equitable relief for a
25 violation of this section. The prevailing party shall be entitled to
26 recover reasonable attorney's fees and costs.

27 (p) A rental company that brings an action against a renter for
28 loss due to theft of the vehicle shall bring the action in the county
29 in which the renter resides or if the renter is not a resident of this
30 state in the jurisdiction in which the renter resides.

31 (q) Any waiver of any of the provisions of this section shall be
32 void and unenforceable as contrary to public policy.

33 (r) This section shall become operative on January 1, 2002.

34 SEC. 44. Section 1940.7.5 of the Civil Code is amended to
35 read:

36 1940.7.5. (a) For purposes of this section, the following
37 definitions shall apply:

38 (1) "Illegal controlled substance" means a drug, substance, or
39 immediate precursor listed in any schedule contained in Section
40 11054, 11055, 11056, 11057, or 11058 of the Health and Safety



1 Code, or an emission or waste material resulting from the unlawful
2 manufacture or attempt to manufacture an illegal controlled
3 substance. An “illegal controlled substance” does not include, for
4 purposes of this section, marijuana.

5 (2) “Release” means any spilling, leaking, pumping, pouring,
6 emitting, emptying, discharging, injecting, escaping, leaching,
7 dumping, or disposing of an illegal controlled substance in a
8 structure or into the environment.

9 (b) (1) The owner of a ~~residential~~ *residential* dwelling unit who
10 knows, as provided in paragraph (2), that any release of an illegal
11 controlled substance has come to be located on or beneath that
12 dwelling unit shall give written notice to the prospective tenant
13 prior to the execution of a rental agreement by providing to a
14 prospective tenant a copy of any notice received from law
15 enforcement or any other entity, such as the Department of Toxic
16 Substances Control, the county health department, the local
17 environmental health officer, or a designee, advising the owner of
18 that release on the property.

19 (2) For purposes of this subdivision, the owner’s knowledge of
20 the condition is established by the receipt of a notice specified in
21 paragraph (1) or by actual knowledge of the condition from a
22 source independent of the notice.

23 (3) If the owner delivers the disclosure information required by
24 paragraph (1), the delivery shall be deemed legally adequate for
25 purposes of informing the prospective tenant of that condition, and
26 the owner is not required to provide any additional disclosure of
27 that information.

28 (4) Failure of the owner to provide written notice to a
29 prospective tenant when required by this subdivision shall subject
30 the owner to actual damages and any other remedies provided by
31 law. In addition, if the owner has actual knowledge of the presence
32 of any release of an illegal controlled substance and knowingly and
33 willfully fails to provide written notice to the renter, as required by
34 this subdivision, the owner is liable for a civil penalty not to exceed
35 five thousand dollars (\$5,000) for each separate violation, in
36 addition to any other damages provided by law.

37 (c) This section shall remain in effect only until January 1,
38 2004, and as of that date is repealed, unless a later enacted statute,
39 that is enacted before January 1, 2004, deletes or extends that date.

40 SEC. 45. Section 3110.5 of the Civil Code is amended to read:

1 3110.5. (a) (1) This section shall apply only to an owner who
2 contracts for a work of improvement for construction, alteration,
3 addition to, or repair upon, property, whether the contracting
4 owner is the owner of a fee simple absolute interest in the property
5 or the owner of any lesser interest in the property. For purposes of
6 this section, a lessee of real property shall be considered to be the
7 owner of a fee simple absolute interest in that real property if and
8 only if: (A) the initial term of the lease is at least 35 years and (B)
9 the lease covers one or more lawful parcels under the Subdivision
10 Map Act (Division 2 (commencing with Section 66410) of Title
11 7 of the Government Code) and any applicable local ordinances
12 adopted pursuant thereto, in their entirety, including, but not
13 limited to, parcels approved pursuant to certificate of compliance
14 proceedings. For purposes of this section, the owner of a fee simple
15 absolute interest shall not be deemed to be the owner of less than
16 a fee simple absolute interest by reason of any mortgages, deeds
17 of trust, ground leases, or other liens or encumbrances or rights to
18 occupancy that may encumber the fee simple absolute interest.
19 ~~When~~ If the owner contracting for the work of improvement is an
20 owner of an interest in the property which is less than a fee simple
21 absolute interest, ~~nothing in this section shall~~ *does not* require the
22 owner of the fee simple absolute interest who does not contract for
23 the work of improvement to provide any security pursuant to this
24 section or to comply with any of the other obligations of an owner
25 under this section. ~~When~~ If the owner contracting for the work of
26 improvement is an owner of the fee simple absolute interest in the
27 property, ~~nothing in this section shall~~ *does not* require the owner
28 of an interest in the property which is less than a fee simple
29 absolute interest who does not contract for the work of
30 improvement to provide any security pursuant to this section or to
31 comply with any of the other obligations of an owner under this
32 section.
33 (2) An owner contracting for a work of improvement is subject
34 to this section only if one of the following conditions is satisfied:
35 (A) The owner contracting for the work of improvement is the
36 owner of a fee simple absolute interest in the property upon which
37 the work of improvement is to be made, and the value of the
38 contract for the work of improvement is more than five million
39 dollars (\$5,000,000).

(B) The owner contracting for the work of improvement is the owner of an interest which is less than a fee simple absolute interest, including a leasehold interest, in the property upon which the work of improvement is to be made, and the value of the contract for the work of improvement is more than one million dollars (\$1,000,000).

(b) ~~When~~ If an owner of property, whether an owner of a fee simple absolute interest or any lesser interest therein, contracts for any work of improvement for construction, alteration, addition to, or repair upon, the property, and the contracting owner is subject to the requirements of this section, as determined by subdivision (a), the contracting owner shall supply to the original contractor, if a lending institution is providing a construction loan, a copy certified by the county recorder of the recorded construction mortgage or deed of trust that shall disclose the amount of the construction loan. In addition, if the contracting owner is not the majority owner of the original contractor, the contracting owner shall provide security for the contracting owner's payment obligations under the construction contract. The security shall be used only when the contracting owner defaults on his or her contractual obligations to the original contractor. The security for the contracting owner's payment obligations under the construction contract shall be provided by one of the following means:

(1) A payment bond, as defined in Section 3096, in the amount of either (A) not less than 25 percent of the total amount of any construction contract that is subject to this section where the construction contract provides that the work of improvement is scheduled to be substantially completed within six months following the commencement thereof, or (B) not less than 15 percent of the total amount of any other construction contract that is subject to this section, which payment bond shall be payable upon default by the contracting owner of any undisputed amount under the contract that has been due and payable for more than 30 days. The payment bond shall be from a California admitted surety which is either listed in the Department of the Treasury's Listing of Approved Sureties (Department Circular 570) or that has an A.M. Best rating of A or better and has an underwriting limitation, pursuant to Section 12090 of the Insurance Code, greater than the value of the contract amount of the bond.

1 (2) An irrevocable letter of credit from a financial institution,
2 as defined in Section 5107 of the Financial Code, insuring to the
3 benefit of the original contractor in the amount of either (A) not
4 less than 25 percent of the total amount of any construction
5 contract that is subject to this section where the construction
6 contract provides that the work of improvement is scheduled to be
7 substantially completed within six months following the
8 commencement thereof, or (B) not less than 15 percent of the total
9 amount of any other construction contract that is subject to this
10 section. The maturity date of the letter of credit and other terms of
11 the letter of credit shall be determined by agreement between the
12 contracting owner, the original contractor, and the issuer of the
13 letter of credit provided that the contracting owner shall be
14 required to maintain the letter of credit in effect until the
15 contracting owner has satisfied all of its payment obligations to the
16 original contractor.

17 (3) (A) An escrow account, designated as a “construction
18 security escrow account,” maintained with an escrow agent
19 licensed under the Escrow Law, as set forth in Division 6
20 (commencing with Section 17000) of the Financial Code, or with
21 any person exempt from the Escrow Law pursuant to paragraph (1)
22 or (3) of subdivision (a) of Section 17006 of the Financial Code,
23 which construction security escrow account shall be located in
24 California and in which the contracting owner shall deposit funds
25 in the amount provided in subparagraph (B); provided that the
26 original contractor shall not be obligated to accept a construction
27 security escrow account as security unless the contracting owner
28 establishes to the reasonable satisfaction of the original contractor
29 (which may be established by a written opinion of legal counsel for
30 the contracting owner), that the contracting owner has granted the
31 original contractor a perfected, first priority security interest in the
32 construction security escrow account and all funds deposited by
33 the contracting owner therein and the proceeds thereof. The funds
34 on deposit in the construction security escrow account shall be the
35 sole property of the contracting owner, subject to the security
36 interest in favor of the original contractor. The escrowholder shall
37 be instructed by the contracting owner and the original contractor
38 to hold the funds on deposit in the construction security escrow
39 account for the purpose of perfecting the original contractor’s
40 security interest therein and to disburse those funds only upon the



1 joint authorization of the contracting owner and the original
2 contractor, or in accordance with an order of any court which is
3 binding on both the owner and the original contractor. ~~Nothing in~~
4 ~~this~~ *This section shall be construed to does not* require any
5 construction lender to agree to deposit proceeds of a construction
6 loan in a construction security escrow account.

7 (B) Prior to commencement of the work under the construction
8 contract, the contracting owner shall make an initial deposit to the
9 construction security escrow account in the amount of either (i) not
10 less than 25 percent of the total amount of any construction
11 contract which is subject to this section where the construction
12 contract provides that the work of improvement is scheduled to be
13 substantially completed within six months following the
14 commencement thereof, or (ii) not less than 15 percent of the total
15 amount of any other construction contract which is subject to this
16 section. In addition, if the construction contract provides for a
17 so-called retainage or retention to be withheld from periodic
18 payments to the original contractor, the contracting owner shall
19 deposit all amounts withheld as retainage or retention in the
20 construction security escrow account at the same time the
21 contracting owner makes the corresponding payment to the
22 original contractor from which the retainage or retention is
23 withheld provided, however, that in no event shall the amount
24 required to be maintained on deposit in the construction security
25 escrow account exceed the total amount of future payments
26 remaining to be due the original contractor under its construction
27 contract (as the same may be adjusted by agreement between the
28 contracting owner and the original contractor). ~~Whenever~~ *If* the
29 amount of funds on deposit in the construction security escrow
30 account equals or exceeds the total amount of future payments
31 remaining to be due the original contractor, the contracting owner
32 and the original contractor shall authorize the disbursement to the
33 original contractor of funds on deposit in the construction security
34 escrow account to pay progress payments then due the original
35 contractor under its construction contract (in whole or in part), but
36 in no event shall either party be obligated to authorize the
37 disbursement of any funds that would cause the amount remaining
38 on deposit in the construction security escrow account following
39 that disbursement to be less than the total amount of future
40 payments remaining to be due the original contractor after

1 application of any funds disbursed to the original contractor. The
2 contracting owner and the original contractor shall authorize the
3 disbursement to the contracting owner of any funds remaining on
4 deposit in the construction security escrow account after the
5 original contractor has been paid all amounts due under its
6 construction contract. The contracting owner and the original
7 contractor shall authorize the disbursement of funds on deposit in
8 the construction security escrow account in accordance with the
9 order of any court which is binding on both of them. The
10 contracting owner and the original contractor may agree in the
11 construction contract upon additional conditions for the
12 disbursement of funds on deposit in the construction security
13 escrow account provided that the conditions shall not cause the
14 amount remaining on deposit in the construction security escrow
15 account to be less than the amount required pursuant to this
16 subparagraph.

17 (c) For the purposes of subdivision (b), ~~in cases where~~ *if* the
18 price under the construction contract is not a fixed price, the
19 amount of security to be provided shall be determined with
20 reference to the guaranteed maximum price, if there is one, or if
21 there is no guaranteed maximum price, the amount of security
22 shall be determined with reference to the contracting owner's and
23 original contractor's good faith estimate as to the total cost
24 anticipated to be incurred under the construction contract.
25 ~~Whenever~~ *If* any contracting owner that is required to provide
26 security under this section with respect to a construction contract
27 fails to provide that security or fails to maintain that security as
28 required, the original contractor may make written demand on the
29 contracting owner to do so, and if the contracting owner fails to
30 provide and maintain that security within 10 days after the original
31 contractor makes written demand on the owner, the original
32 contractor may suspend work until the required security is
33 provided and maintained in accordance with this section.

34 (d) ~~No part of this~~ *This section shall be interpreted to does not*
35 affect provisions in this code providing for mechanics' liens, stop
36 notices, bond remedies, or prompt payment rights of a
37 subcontractor, including the original contractor's payment
38 responsibilities as set forth in Section 7108.5 of the Business and
39 Professions Code and Section 10262 of the Public Contract Code.



1 (e) ~~Nothing in this~~ This section ~~shall~~ *does not* apply to the
2 construction of single-family residences, including single-family
3 residences located within a subdivision, and any associated fixed
4 works that require the services of a general engineering contractor,
5 as defined in Section 7056 of the Business and Professions Code,
6 any public works projects, or housing developments eligible for a
7 density bonus pursuant to Section 65915 of the Government Code.
8 As used in this section, the term “single-family” residence means
9 a real property improvement used or intended to be used as a
10 dwelling unit for one family.

11 (f) This section does not apply to either of the following:

12 (1) Any contract where the contracting owner is either a
13 qualified publicly traded company or a wholly owned subsidiary
14 of a qualified publicly traded company, provided that the
15 obligations of the subsidiary under the construction contract are
16 guaranteed by the parent which is a qualified publicly traded
17 company. As used in this section, the term “qualified publicly
18 traded company” means any company having a class of equity
19 securities listed for trading on the New York Stock Exchange, the
20 American Stock Exchange or the NASDAQ stock market and the
21 nonsubordinated debt securities thereof which are rated as
22 “investment grade” by either Fitch IBCA, Inc., Moody’s Investor
23 Services, Inc., Standard & Poor’s Ratings Services or a similar
24 statistical rating organization which is nationally recognized for
25 rating the creditworthiness of publicly traded companies. If at any
26 time prior to final payment of all sums due under the construction
27 contract the nonsubordinated debt securities of the qualified
28 publicly traded company are downgraded to below “investment
29 grade” by one of the referenced rating agencies, the contracting
30 owner of the property will no longer be exempt from the
31 provisions of this section.

32 (2) Any contract where the contracting owner is either a
33 qualified private company or a wholly owned subsidiary of a
34 qualified private company, provided that the obligations of the
35 subsidiary under the construction contract are guaranteed by the
36 parent which is a qualified private company. As used in this
37 section, the term “qualified private company” means any
38 company that has no equity securities listed for trading on the New
39 York Stock Exchange, the American Stock Exchange or the
40 NASDAQ stock market, and that has a net worth determined in

1 accordance with generally accepted accounting principles in
2 excess of fifty million dollars (\$50,000,000). If at any time prior
3 to final payment of all sums due under the construction contract the
4 net worth of the qualified private company is reduced below the
5 level referenced in this section, the owner of the property will no
6 longer be exempt from the provisions of this section.

7 (g) It ~~shall be~~ *is* against public policy to waive the provisions
8 of this section in any contract for any private work of improvement
9 to which this section applies.

10 SEC. 46. Section 116.950 of the Code of Civil Procedure is
11 amended to read:

12 116.950. (a) This section shall become operative only if the
13 Department of Consumer Affairs determines that sufficient
14 private or public funds are available in addition to the funds
15 available in the department's current budget to cover the costs of
16 implementing this section.

17 (b) There shall be established an advisory committee,
18 constituted as set forth in this section, to study small claims
19 practice and procedure, with particular attention given to the
20 improvement of procedures for the enforcement of judgments.

21 (c) The members of the advisory committee shall serve without
22 compensation, but shall be reimbursed for expenses actually and
23 necessarily incurred by them in the performance of their duties.

24 (d) The advisory committee shall be composed as follows:

25 (1) The Attorney General or a representative.

26 (2) Two consumer representatives from consumer groups or
27 agencies, appointed by the Secretary of the State and Consumer
28 Services Agency.

29 (3) One representative appointed by the Speaker of the
30 Assembly and one representative appointed by the President pro
31 Tempore of the Senate.

32 (4) Two representatives appointed by the Board of Governors
33 of the State Bar.

34 (5) Two representatives of the business community, appointed
35 by the Secretary of ~~the~~ *Technology*, Trade, and Commerce
36 ~~Agency~~.

37 (6) Six judicial officers who have extensive experience
38 presiding in small claims court, appointed by the Judicial Council.
39 Judicial officers appointed under this subdivision may include
40 judicial officers of the superior court, ~~judicial officers of the~~

1 ~~municipal court~~, judges of the appellate courts, retired judicial
2 officers, and temporary judges.

3 (7) One representative appointed by the Governor.

4 (8) Two clerks of the court appointed by the Judicial Council.

5 (e) Staff assistance to the advisory committee shall be provided
6 by the Department of Consumer Affairs, with the assistance of the
7 Judicial Council, as needed.

8 SEC. 47. Section 488.455 of the Code of Civil Procedure is
9 amended to read:

10 488.455. (a) Subject to Section 488.465, to attach a deposit
11 account, the levying officer shall personally serve a copy of the
12 writ of attachment and a notice of attachment on the financial
13 institution with which the deposit account is maintained. The
14 attachment lien reaches only amounts in the deposit account at the
15 time of service on the financial institution ~~(including, including~~
16 any item in the deposit account that is in the process of being
17 collected, unless the item is returned unpaid to the financial
18 ~~institution)~~ institution.

19 (b) At the time of levy or promptly thereafter, the levying
20 officer shall serve a copy of the writ of attachment and a notice of
21 attachment on any third person in whose name the deposit account
22 stands.

23 (c) During the time the attachment lien is in effect, the financial
24 institution shall not honor a check or other order for the payment
25 of money drawn against, and shall not pay a withdrawal from, the
26 deposit account that would reduce the deposit account to an
27 amount *that is* less than the amount attached. For the purposes of
28 this subdivision, in determining the amount of the deposit account,
29 the financial institution shall not include the amount of items
30 deposited to the credit of the deposit account that are in the process
31 of being collected.

32 (d) During the time the attachment lien is in effect, the financial
33 institution is not liable to any person for any of the following:

34 (1) Performance of the duties of a garnishee under the
35 attachment.

36 (2) Nonpayment of a check or other order for the payment of
37 money drawn or presented against the deposit account ~~where if~~ the
38 nonpayment is pursuant to the requirements of subdivision (c).

39 (3) Refusal to pay a withdrawal from the deposit account ~~where~~
40 if the refusal is pursuant to the requirements of subdivision (c).

(e) When the amount attached pursuant to this section is paid to the levying officer, the attachment lien on the attached deposit account terminates.

(f) For the purposes of this section, neither of the following is a third person in whose name the deposit account stands:

(1) A person who is only a person named as the beneficiary of a Totten trust account.

(2) A person who is only a payee designated in a pay-on-death provision in an account pursuant to Section ~~852.5, 6854, 14854.5, 5140~~ or 18318.5 of the Financial Code or other similar provision.

(g) When a deposit account has been attached, as an alternative to paying the amount of the deposit account that is attached to the levying officer as required by Section 488.600, the financial institution may continue to hold the deposit account until the deposit account is levied upon after judgment in the action or is earlier released, the deposit account to be held in one of the following manners:

(1) If the entire deposit account is attached, the financial institution may hold the deposit account on the terms applicable before the attachment, subject to the requirements of subdivision (c).

(2) If less than the entire deposit account is attached:

(A) With the consent of the defendant, and any third person in whose name the deposit account stands, the financial institution may hold in the deposit account on the same terms an amount larger than the attached amount as necessary to avoid a penalty or a reduction of the rate of interest.

(B) If the defendant, and any third person in whose name the deposit account stands, do not consent as provided in subparagraph (A), the financial institution may hold the attached amount on the same terms affecting the deposit account before the attachment, subject to the requirements of subdivision (c).

(3) The financial institution may hold the attached deposit account in any other manner agreed upon by the plaintiff, the defendant, and any third person in whose name the deposit account stands.

~~(h) Nothing in subdivision~~ Subdivision (g) ~~shall~~ does not prevent a financial institution that is holding an attached deposit account as provided in subdivision (g) from paying the attached amount to the levying officer before the time the financial

1 institution otherwise is required to pay the amount under
2 subdivision (g).

3 SEC. 48. Section 700.140 of the Code of Civil Procedure is
4 amended to read:

5 700.140. (a) Subject to Section 700.160, to levy upon a
6 deposit account, the levying officer shall personally serve a copy
7 of the writ of execution and a notice of levy on the financial
8 institution with which the deposit account is maintained. The
9 execution lien reaches only amounts in the deposit account at the
10 time of service on the financial institution ~~(including, including~~
11 any item in the deposit account that is in the process of being
12 collected, unless the item is returned unpaid to the financial
13 ~~institution)~~ institution.

14 (b) At the time of levy or promptly thereafter, the levying
15 officer shall serve a copy of the writ of execution and a notice of
16 levy on any third person in whose name the deposit account stands.
17 Service shall be made personally or by mail.

18 (c) During the time the execution lien is in effect, the financial
19 institution shall not honor a check or other order for the payment
20 of money drawn against, and shall not pay a withdrawal from, the
21 deposit account that would reduce the deposit account to an
22 amount *that is* less than the amount levied upon. For the purposes
23 of this subdivision, in determining the amount of the deposit
24 account, the financial institution shall not include the amount of
25 items deposited to the credit of the deposit account that are in the
26 process of being collected.

27 (d) During the time the execution lien is in effect, the financial
28 institution is not liable to any person for any of the following:

29 (1) Performance of the duties of a garnishee under the levy.
30 (2) Nonpayment of a check or other order for the payment of
31 money drawn or presented against the deposit account ~~where such~~
32 *if the* nonpayment is pursuant to the requirements of subdivision
33 (c).

34 (3) Refusal to pay a withdrawal from the deposit account ~~where~~
35 *such if the* refusal is pursuant to the requirements of subdivision
36 (c).

37 (e) When the amount levied upon pursuant to this section is
38 paid to the levying officer, the execution lien on the deposit
39 account levied upon terminates.

(f) For the purposes of this section, neither of the following is a third person in whose name the deposit account stands:

(1) A person who is only a person named as the beneficiary of a Totten trust account.

(2) A person who is only a payee designated in a pay-on-death provision in an account pursuant to Section ~~852.5, 6854, 14854.5, 5140~~ or 18318.5 of the Financial Code or other similar provision.

SEC. 49. Section 912 of the Code of Civil Procedure is amended to read:

912. Upon final determination of an appeal by the reviewing court, the clerk of the court shall remit to the trial court a certified copy of the judgment or order of the reviewing court and of its opinion, if any. The clerk of the trial court shall file the certified copy of the judgment and opinion of the reviewing court, shall ~~attach the same~~ *that copy* to the judgment roll if the appeal was from a judgment, and shall enter a note of the judgment of the reviewing court stating whether the judgment or order appealed from has been affirmed, reversed or modified, in the margin of the original entry of the judgment or order, and also in the register of actions.

SEC. 50. Section 1174.3 of the Code of Civil Procedure is amended to read:

1174.3. (a) Unless a prejudgment claim of right to possession has been served upon occupants in accordance with Section 415.46, any occupant not named in the judgment for possession who occupied the premises on the date of the filing of the action may object to enforcement of the judgment against that occupant by filing a claim of right to possession as prescribed in this section. A claim of right to possession may be filed at any time after service or posting of the writ of possession pursuant to subdivision (a) or (b) of Section 715.020, up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession. Filing the claim of right to possession shall constitute a general appearance for which a fee shall be collected as provided in Section 72056 of the Government Code. Section 68511.3 of the Government Code applies to the claim of right to possession. An occupant or tenant who is named in the action shall not be required to file a claim of right to possession to protect that occupant's right to possession of the premises.

1 (b) The court issuing the writ of possession of real property
2 shall set a date or dates when the court will hold a hearing to
3 determine the validity of objections to enforcement of the
4 judgment specified in subdivision (a). An occupant of the real
5 property for which the writ is issued may make an objection to
6 eviction to the levying officer at the office of the levying officer
7 or at the premises at the time of the eviction.

8 If a claim of right to possession is completed and presented to
9 the sheriff, marshal, or other levying officer, the officer shall
10 forthwith (1) stop the eviction of occupants at the premises, and (2)
11 provide a receipt or copy of the completed claim of right of
12 possession to the claimant indicating the date and time the
13 completed form was received, and (3) deliver the original
14 completed claim of right to possession to the court issuing the writ
15 of possession of real property.

16 (c) A claim of right to possession is effected by any of the
17 following:

18 (1) Presenting a completed claim form in person with
19 identification to the sheriff, marshal, or other levying officer as
20 prescribed in this section, and delivering to the court within two
21 court days after its presentation, an amount equal to 15 days' rent
22 together with the appropriate fee or form for proceeding in forma
23 pauperis. Upon receipt of a claim of right to possession, the sheriff,
24 marshal, or other levying officer shall indicate thereon the date and
25 time of its receipt and forthwith deliver the original to the issuing
26 court and a receipt or copy of the claim to the claimant and notify
27 the plaintiff of that fact. Immediately upon receipt of an amount
28 equal to 15 days' rent and the appropriate fee or form for
29 proceeding in forma pauperis, the court shall file the claim of right
30 to possession and serve an endorsed copy with the notice of the
31 hearing date on the plaintiff and the claimant by first-class mail.
32 The court issuing the writ of possession shall set and hold a hearing
33 on the claim not less than five nor more than 15 days after the claim
34 is filed with the court.

35 (2) Presenting a completed claim form in person with
36 identification to the sheriff, marshal, or other levying officer as
37 prescribed in this section, and delivering to the court within two
38 court days after its presentation, the appropriate fee or form for
39 proceeding in forma pauperis without delivering the amount
40 equivalent to 15 days' rent. In this case, the court shall

1 immediately set a hearing on the claim to be held on the fifth day
2 after the filing is completed. The court shall notify the claimant of
3 the hearing date at the time the claimant completes the filing by
4 delivering to the court the appropriate fee or form for proceeding
5 in forma pauperis, and shall notify the plaintiff of the hearing date
6 by first-class mail. Upon receipt of a claim of right to possession,
7 the sheriff, marshal, or other levying officer shall indicate thereon
8 the date and time of its receipt and forthwith deliver the original
9 to the issuing court and a receipt or copy of the claim to the
10 claimant and notify the plaintiff of that fact.

11 (d) At the hearing, the court shall determine whether there is a
12 valid claim of possession by the claimant who filed the claim, and
13 the court shall consider all evidence produced at the hearing,
14 including, but not limited to, the information set forth in the claim.
15 The court may determine the claim to be valid or invalid based
16 upon the evidence presented at the hearing. The court shall
17 determine the claim to be invalid if the court determines that the
18 claimant is an invitee, licensee, guest, or trespasser. If the court
19 determines the claim is invalid, the court shall order the return to
20 the claimant of the amount of the 15 days' rent paid by the
21 claimant, if that amount was paid pursuant to paragraphs (1) or (3)
22 of subdivision (c), less a pro rata amount for each day that
23 enforcement of the judgment was delayed by reason of making the
24 claim of right to possession, which pro rata amount shall be paid
25 to the landlord. If the court determines the claim is valid, the
26 amount equal to 15 days' rent paid by the claimant shall be
27 returned immediately to the claimant.

28 (e) If, upon hearing, the court determines that the claim is valid,
29 then the court shall order further proceedings as follows:

30 (1) If the unlawful detainer is based upon a curable breach, and
31 the claimant was not previously served with a proper notice, if any
32 notice is required, then the required notice may at the plaintiff's
33 discretion be served on the claimant at the hearing or thereafter. If
34 the claimant does not cure the breach within the required time, then
35 a supplemental complaint may be filed and served on the claimant
36 as defendant if the plaintiff proceeds against the claimant in the
37 same action. For the purposes of this section only, service of the
38 required notice, if any notice is required, and of the supplemental
39 complaint may be made by first-class mail addressed to the
40 claimant at the subject premises or upon his or her attorney of

1 record and, in either case, Section 1013 shall otherwise apply.
2 Further proceedings on the merits of the claimant's continued right
3 to possession after service of the Summons and Supplemental
4 Complaint as prescribed by this subdivision shall be conducted
5 pursuant to this chapter.

6 (2) In all other cases, the court shall deem the unlawful detainer
7 Summons and Complaint to be amended on their faces to include
8 the claimant as defendant, service of the Summons and Complaint,
9 as thus amended, may at the plaintiff's discretion be made at the
10 hearing or thereafter, and the claimant thus named and served as
11 a defendant in the action shall answer or otherwise respond within
12 five days thereafter.

13 (f) If a claim is made without delivery to the court of the
14 appropriate filing fee or a form for proceeding in forma pauperis,
15 as prescribed in this section, the claim shall be immediately
16 deemed denied and the court shall so order. Upon the denial of the
17 claim, the court shall immediately deliver an endorsed copy of the
18 order to the levying officer and shall serve an endorsed copy of the
19 order on the plaintiff and claimant by first-class mail.

20 (g) If the claim of right to possession is denied pursuant to
21 subdivision (f), or if the claimant fails to appear at the hearing or,
22 upon hearing, if the court determines that there are no valid claims,
23 or if the claimant does not prevail at a trial on the merits of the
24 unlawful detainer action, the court shall order the levying officer
25 to proceed with enforcement of the original writ of possession of
26 real property as deemed amended to include the claimant, which
27 shall be effected within a reasonable time not to exceed five days.
28 Upon receipt of the court's order, the levying officer shall enforce
29 the writ of possession of real property against any occupant or
30 occupants.

31 (h) The claim of right to possession shall be made on the
32 following form:

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1 SEC. 51. Section 1206 of the Code of Civil Procedure is
2 amended to read:

3 1206. (a) Upon the levy under a writ of attachment or
4 execution not founded upon a claim for labor, any miner,
5 mechanic, salesman, servant, clerk, laborer or other person who
6 has performed work or rendered personal services for the
7 defendant within 90 days prior to the levy may file a verified
8 statement of the claim ~~therefor~~ with the officer executing the writ,
9 file a copy ~~thereof~~ with the court that issued the writ, and give
10 copies ~~thereof~~, containing his or her address, to the plaintiff and the
11 defendant, or any attorney, clerk or agent representing them, or
12 mail copies to them by registered mail at their last known address,
13 return of which by the post office undelivered shall be deemed a
14 sufficient service if no better address is available, and that claim,
15 not exceeding nine hundred dollars (\$900), unless disputed, ~~must~~
16 *shall* be paid by the officer, immediately upon the expiration of the
17 time for dispute of the claim as prescribed in Section 1207, from
18 the proceeds of the levy remaining in the officer's hands at the time
19 of the filing of the statement or collectible by the officer on the
20 basis of the writ.

21 (b) The court issuing the writ ~~must~~ *shall* make a notation in the
22 register of actions of every preferred labor claim of which it
23 receives a copy and ~~must~~ *shall* endorse on any writ of execution
24 or abstract of judgment issued subsequently in the case that it is
25 issued subject to the rights of a preferred labor claimant or
26 claimants and giving the names and amounts of all preferred labor
27 claims of which it has notice. In levying under any writ of
28 execution the officer making the levy shall include in the amount
29 due under the execution ~~any and~~ all preferred labor claims that
30 have been filed in the action and of which the officer has notice,
31 except any claims that may have been finally disallowed by the
32 court under ~~the this~~ procedure ~~provided for herein~~ and of which
33 disallowance the officer has actual notice. The amount due on
34 preferred labor claims that have not been finally disallowed by the
35 court shall be considered a part of the sum due under any writ of
36 attachment or execution in augmentation of ~~the that~~ amount
37 ~~thereof and it shall be the duty of~~ any person, firm, association, or
38 corporation on whom a writ of attachment or execution is levied
39 ~~to~~ *shall* immediately pay to the levying officer the amount of the
40 preferred labor claims, out of any money belonging to the

defendant in the action, before paying the principal sum called for in the writ.

(c) If any claim is disputed within the time, and in the manner prescribed in Section 1207, and a copy of the dispute is mailed by registered mail to the claimant or the claimant's attorney at the address given in the statement of claim and the registry receipt is attached to the original of the dispute when it is filed with the levying officer, or is handed to the claimant or the claimant's attorney, the claimant, or the claimant's assignee, must within 10 days after the copy is deposited in the mail or is handed to the claimant or the claimant's attorney, petition the court having jurisdiction of the action on which the writ is based, for a hearing before it to determine the claim for priority, or the claim to priority is barred. If more than one attachment or execution is involved, the petition shall be filed in the court having jurisdiction over the senior attachment or execution. The hearing shall be held within 20 days from the filing of the petition, unless the court continues it for good cause. Ten days' notice of the hearing shall be given by the petitioner to the plaintiff ~~and~~, the defendant, and ~~to~~ all parties claiming an interest in the property, or their attorneys. The notice may be informal and need specify ~~merely~~ *only* the name of the court, *the* names of the principal parties to the senior attachment or execution, and *the* name of the wage claimant or claimants on whose behalf it is filed but shall specify that the hearing is for the purpose of determining the claim for priority. The plaintiff ~~or~~, the defendant, or any other party claiming an interest may contest the amount or validity of the claim in spite of any confession of judgment or failure to appear or to contest the claim on the part of any other person.

(d) There shall be no cost for filing or hearing the petition ~~and~~ ~~the~~. *The* hearing on the petition shall be informal but all parties testifying ~~must~~ *shall* be sworn. Any claimant may appear on the claimant's own behalf at the hearing and may call and examine witnesses to substantiate his or her claim. An appeal may be taken from a judgment in a proceeding under this section in the manner provided for appeals from judgments of the court where the proceeding ~~is had~~ *occurred*, in an action of the same jurisdictional classification.

(e) The officer shall ~~retain in possession~~ *keep*, until the determination of the claim for priority ~~so much~~, *any amount* of the

1 proceeds of the writ ~~as may be necessary to satisfy the claim, and~~
2 ~~if~~. *If* the claim for priority is allowed, the officer shall pay the
3 amount due, including the claimant's cost of suit, from ~~such~~ *those*
4 proceeds, immediately after the order allowing the claim becomes
5 final.

6 SEC. 52. Section 1299.3 of the Code of Civil Procedure is
7 amended to read:

8 1299.3. As used in this title:

9 (a) "Employee" means any firefighter or law enforcement
10 officer represented by an employee organization, *as* defined in
11 subdivision (b).

12 (b) "Employee organization" means any organization
13 recognized by the employer for the purpose of representing
14 firefighters or law enforcement officers in matters relating to
15 wages, hours, and other terms and conditions of employment
16 within the scope of arbitration.

17 (c) "Employer" means any local agency employing
18 employees, as defined in subdivision (a), or any entity, except the
19 State of California, acting as an agent of any local agency, either
20 directly or indirectly.

21 (d) "Firefighter" means any person who is employed to
22 perform firefighting, fire prevention, fire training, hazardous
23 materials response, emergency medical services, fire or arson
24 investigation, or any related duties, without respect to the rank, job
25 title, or job assignment of that person.

26 (e) "Law enforcement officer" means any person who is a
27 peace officer, as defined in Section 830.1 of, subdivisions (b) and
28 (d) of Section 830.31 of, subdivisions (a), (b), and (c) of Section
29 830.32 of, subdivisions (a), (b), and (d) of Section 830.33 of,
30 subdivisions (a) and (b) of Section 830.35 of, subdivision (a) of
31 Section 830.5 of, and subdivision (a) of Section 830.55 of, the
32 Penal Code, without respect to the rank, job title, or job assignment
33 of that person.

34 (f) "Local agency" means any governmental subdivision,
35 district, public and quasi-public corporation, joint powers agency,
36 public agency or public service corporation, town, city, county,
37 city and county, or municipal corporation, whether incorporated
38 or not or whether chartered or not.

39 (g) "Scope of arbitration" means economic issues, including
40 salaries, wages and overtime pay, health and pension benefits,

1 vacation and other leave, reimbursements, incentives,
2 differentials, and all other forms of remuneration. The scope of
3 arbitration shall not include any issue that is protected by what is
4 commonly referred to as the “management rights” clause
5 contained in Section 3504 of the Government Code.
6 Notwithstanding the foregoing, any employer ~~subject to this title~~
7 that is not exempt under Section 1299.9 may supersede this
8 subdivision by adoption of an ordinance that establishes a broader
9 definition of “scope of arbitration.”

10 SEC. 53. Section 25607 of the Corporations Code is amended
11 to read:

12 25607. (a) Neither the commissioner nor any of the
13 commissioner’s assistants, clerks, or deputies shall be interested
14 as a director, officer, shareholder, member (other than a member
15 of an organization formed for religious purposes), partner, agent,
16 or employee of any person who, during the period of the official’s
17 or employee’s association with the Department of Corporations,
18 (1) was licensed or applied for license as a broker-dealer or
19 investment adviser under this division, or (2) applied for or
20 secured the qualification of the sale of securities under this
21 division.

22 (b) Nothing contained in subdivision (a) ~~of this section~~ shall
23 prohibit the holding or purchasing of any securities by any
24 assistant, clerk, or deputy in accordance with ~~such~~ rules as the
25 commissioner shall adopt for the purpose of protecting the public
26 interest and avoiding conflicts of interest.

27 (c) Nothing contained in subdivision (a) shall prohibit the
28 holding or purchasing of any securities by the commissioner if any
29 of the following criteria is met:

30 (1) The securities held or purchased by the commissioner are
31 exempt from the qualification requirements of Sections 25110,
32 25120, and 25130 by virtue of Section 25100, provided that the
33 holding or purchasing of those securities is in accordance with
34 rules adopted for the purpose of protecting the public interest and
35 avoiding conflicts of interest.

36 (2) The securities held or purchased by the commissioner are
37 not subject to Sections 25110, 25120, and 25130 by virtue of
38 Section 25100.1, provided that the holding or purchasing of those
39 securities is in accordance with rules adopted for the purpose of
40 protecting the public interest and avoiding conflicts of interest.

(3) The holding or purchasing of any securities by the commissioner meets each of the following requirements:

(A) The securities are held or purchased through a management account or trust administered by a bank or trust company authorized to do business in this state, and the bank or trust company has sole investment discretion regarding the holding, purchase, and sale of securities.

(B) The commissioner did not, directly or indirectly, advise, counsel, command, or suggest the holding, purchase, or sale of any ~~such~~ security or furnish any information relating to ~~such the~~ security to the bank or trust company.

(C) The account or trust does not at any time have more than 10 percent of its total assets invested in the securities of any one issuer or hold more than 5 percent of the outstanding shares or units of any class of securities of any one issuer.

(D) The commissioner shall report to the Attorney General not less often than quarterly all holdings, purchases, and sales of securities by him or her as authorized in paragraph (3), which reports shall be retained by the Attorney General as public documents.

SEC. 54. Section 31011 of the Corporations Code is amended to read:

31011. “Franchise fee” means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including, but not limited to, any such payment for such goods and services.

However, the following shall not be considered the payment of a franchise fee:

(a) The purchase or agreement to purchase goods at a bona fide wholesale price if no obligation is imposed upon the purchaser to purchase or pay for a quantity of such goods in excess of that which a reasonable ~~businessman~~ *businessperson* normally would purchase by way of a starting inventory or supply or to maintain a going inventory or supply.

(b) The payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring ~~such that~~ credit card.

(c) Amounts paid to a trading stamp company ~~licensed~~ under Chapter 3 (commencing with Section 17750) of Part 3 of Division

7 of the Business and Professions Code by a person issuing trading stamps in connection with the retail sale of merchandise or service.

SEC. 55. Section 8277.6 of the Education Code is amended to read:

8277.6. (a) For purposes of this section “department” means the Department of Housing and Community Development.

(b) The department shall administer the Child Care and Development Facilities Loan Guaranty Fund and the Child Care and Development Facilities Direct Loan Fund. The department may administer the funds directly, through interagency agreements with other state agencies, through contracts with public or private entities, or through any combination thereof. If the department determines that a public or private entity is capable of making child care and development facilities loans or loan guarantees, the department may delegate the authority to review and approve those loans or guarantees to the public or private entity. The department is authorized to enter into an interagency agreement with the Trade and Commerce Agency to carry out the purposes of this section and Section 8277.5 by utilizing the services of small business financial development corporations established pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of the Corporations Code. Toward this end, the department is authorized to transfer funds from the Child Care and Development Facilities Direct Loan Fund to the California Economic Development Grant and Loan Fund established by Section 15327 of the Government Code and to transfer funds from the Child Care and Development Facilities Loan Guaranty Fund to the Small Business Expansion Fund established by Section 14030 of the Corporations Code. Those funds shall be deposited into a Child Care Direct Loan Fund Account and a Child Care Loan Guaranty Fund Account hereby established in the respective funds. Notwithstanding anything to the contrary in Chapter 1 (commencing with Section 15310) of Part 6.7 of Division 3 of Title 2 of the Government Code and Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of the Corporations Code, the funds in these accounts shall be administered in compliance with the requirements of this section and Section 8277.5.

(c) Eligible applicants for the loan guaranty program and the direct loan program shall include, but not be limited to, sole

1 proprietorships, partnerships, proprietary and nonprofit
2 corporations, and local public agencies that are responsible for
3 contracting with or providing licensed child care and development
4 services. Eligible facilities shall include licensed full-day and
5 part-day child care and development facilities and licensed large
6 family day care homes as described in Section 1597.465 of the
7 Health and Safety Code, and licensed small family day care ~~home~~
8 *homes* as described in Section 1597.44 of the Health and Safety
9 Code.

10 (d) Loan guarantees and direct loans for family child care
11 homes shall not be made for the purpose of purchasing a home or
12 any real property.

13 (e) The State Department of Education shall provide input
14 regarding program priorities that shall be considered in the
15 funding of applications by the department. These priorities shall
16 include, but are not limited to, the following:

17 (1) Geographic priorities based on the extent of need for child
18 care and development supply-building efforts in different parts of
19 the state.

20 (A) Not less than 30 percent of the loan guarantee and direct
21 loan obligations shall benefit providers located in rural areas, as
22 defined in subparagraph (B). If the amount of qualified
23 applications from rural providers is insufficient to satisfy this
24 requirement, the excess capacity reserved for rural providers may
25 be made available to other qualified applications according to the
26 policies and procedures of the department. The remaining 70
27 percent of funds shall be available to rural or urban areas and other
28 priorities in accordance with this subdivision.

29 (B) For purposes of subdivision (a), rural communities are
30 defined by any county with fewer than 400 residents per square
31 mile.

32 (2) Age priorities based on the extent of need for child care and
33 development supply-building efforts for children of different age
34 groups.

35 (3) Income priorities shall include families transitioning to
36 work or other lower income families. For purposes of this section,
37 “lower income” shall have the same meaning as “income
38 eligible” as set forth in Section 8263.1.

39 (4) Program priorities based on the extent of facilities needs
40 among specific kinds of providers, including those that contract to

1 administer state and federally funded child care and development
2 programs administered by the State Department of Education,
3 providers who have lost classrooms due to class size reduction or
4 other state or local initiatives, or providers that need to expand to
5 meet the needs of a child care initiative for recipients of aid under
6 Chapter 3 (commencing with Section 11200) of Part 3 of Division
7 9 of the Welfare and Institutions Code, or any successor program.

8 (f) The program priorities shall reflect input from
9 representatives of diverse sectors of the child care and
10 development field, financial institutions, local planning councils,
11 the Child Development Programs Advisory Committee, and the
12 State Department of Social Services for purposes of identifying
13 communities with high percentages of recipients of aid under
14 Chapter 3 (commencing with Section 11200) of Part 3 of Division
15 9 of the Welfare and Institutions Code, or any successor program,
16 who need child care to meet work requirements. As part of its
17 annual report to the Legislature, required pursuant to Section
18 50408 of the Health and Safety Code, the department shall assess
19 and report, after consultation with the State Department of
20 Education, on the performance, effectiveness, and fiscal standing
21 of the Child Care and Development Facilities Loan Guaranty Fund
22 and the Child Care and Development Facilities Direct Loan Fund.
23 The report shall include information on the number of defaults, the
24 types of facilities in default, and a review of the adequacy of the
25 set-aside for rural areas specified in paragraph (1) of subdivision
26 (e).

27 (g) The department shall adopt regulations and establish
28 priorities, forms, policies and procedures for implementing and
29 managing the Child Care and Development Facilities Loan
30 Guaranty Fund and the Child Care and Development Facilities
31 Direct Loan Fund and making the loan guarantees and direct loans
32 authorized hereunder consistent with priorities provided by the
33 State Department of Education. To the extent feasible, the
34 department shall use applicant fees and points to cover its
35 administrative costs. The department may utilize an amount of
36 money from the Child Care and Development Facilities Loan
37 Guaranty Fund and the Child Care and Development Facilities
38 Direct Loan Fund, as appropriate, for reasonable administrative
39 costs in any given fiscal year. Unless an appropriation for
40 administrative costs is made in the annual Budget Act that exceeds

1 the following limits, administrative expenditures shall not exceed
2 3 percent of the amount appropriated to each fund in the Budget
3 Act of 1997.

4 (h) (1) The department shall adopt regulations to efficiently
5 and effectively implement the microenterprise loan program
6 described in this subdivision, including, but not limited to, the
7 following:

8 (A) Making loans available from the Child Care and
9 Development Facilities Direct Loan Fund to local microenterprise
10 loan funds and other lenders who may relend the funds in
11 appropriate amounts to eligible small family day care home
12 providers described in Section 1597.44 of the Health and Safety
13 Code, large family day care home providers described in Section
14 1597.465 of the Health and Safety Code, and licensed child care
15 and development facilities that serve up to 35 children.

16 (B) Authorizing a specified amount of guarantees of small
17 loans by local microenterprise loan funds and other lenders serving
18 eligible small family day care home providers described in Section
19 1597.44 of the Health and Safety Code, large family day care home
20 providers described in Section 1597.465 of the Health and Safety
21 Code, and licensed child care and development facilities that serve
22 up to 35 children.

23 (2) Notwithstanding anything to the contrary in this section or
24 Section 8277.5, a loan made pursuant to this subdivision shall not
25 be made for less than five thousand dollars (\$5,000) or for more
26 than fifty thousand dollars (\$50,000) and shall not be subject to the
27 75-percent investment restriction contained in paragraph (2) of
28 subdivision (e) of Section 8277.5.

29 (i) The department may adopt regulations for the purposes of
30 this section as emergency regulations in accordance with Chapter
31 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
32 Title 2 of the Government Code. For the purposes of the
33 Administrative Procedure Act, including Section 11349.6 of the
34 Government Code, the adoption of the regulations shall be deemed
35 to be an emergency and necessary for the immediate preservation
36 of the public peace, health and safety, or general welfare,
37 notwithstanding subdivision (e) of Section 11346.1 of the
38 Government Code. Notwithstanding subdivision (e) of Section
39 11346.1, any regulation adopted pursuant to this section shall not
40 remain in effect more than 180 days unless the department



1 complies with all provisions of Chapter 3.5 (commencing with
2 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
3 Code, as required by subdivision (e) of Section 11346.1 of the
4 Government Code.

5 SEC. 56. Section 8278.3 of the Education Code is amended
6 to read:

7 8278.3. (a) (1) The Child Care Facilities Revolving Fund is
8 hereby established in the State Treasury to provide funding for the
9 renovation, repair, or improvement of an existing building to make
10 the building suitable for licensure for child care and development
11 services and for the purchase of new relocatable child care
12 facilities for lease to school districts and contracting agencies ~~who~~
13 *that* provide child care and development services, pursuant to this
14 chapter. The Superintendent of Public Instruction may transfer
15 state funds appropriated for child care facilities into this fund for
16 allocation to school districts and contracting agencies, as
17 specified, for the purchase, transportation, and installation of
18 facilities for replacement and expansion of capacity. School
19 districts and contracting agencies using facilities made available
20 by the use of these funds shall be charged a leasing fee, either at
21 a fair market value for those facilities or at an amount sufficient to
22 amortize the cost of purchase and relocation, whichever is lower,
23 over a 10-year period. Upon full repayment of the purchase and
24 relocation costs, title shall transfer from the State of California to
25 the school district or contracting agency. The Superintendent of
26 Public Instruction shall deposit all revenue derived from the lease
27 payments into the Child Care Facilities Revolving Fund.

28 (2) Notwithstanding Section 13340 of the Government Code,
29 all moneys in the fund, including moneys deposited from lease
30 payments, shall be continuously appropriated, without regard to
31 fiscal year, to the Superintendent of Public Instruction for
32 expenditure pursuant to this article.

33 (b) On or before August 1, 1998, and on or before August 1 of
34 each fiscal year thereafter, the Superintendent of Public
35 Instruction shall submit to the Office of the Secretary for
36 Education, the Department of Finance, and the Legislative
37 Analyst's Office a report detailing the number of funding requests
38 received and their purpose, the types of agencies which received
39 this facilities funding, the increased capacity that these facilities
40 generated, a description of how the facilities are being used, and

1 a projection of the lease payments collected and the funds available
2 for future use.

3 SEC. 57. Section 17250.30 of the Education Code is amended
4 to read:

5 17250.30. (a) Any design-build entity that is selected to
6 design and build a project pursuant to this chapter shall possess or
7 obtain sufficient bonding to cover the contract amount for
8 nondesign services, and errors and ~~omission~~ omissions insurance
9 coverage sufficient to cover all design and architectural services
10 provided in the contract. This chapter does not prohibit a general
11 or engineering contractor from being designated the lead entity on
12 a design-build entity for the purposes of purchasing necessary
13 bonding to cover the activities of the design-build entity.

14 (b) Any payment or performance bond written for the purposes
15 of this chapter shall use a bond form developed by the Department
16 of General Services pursuant to subdivision (i) of Section 14661
17 of the Government Code. The purpose of this subdivision is to
18 promote uniformity of bond forms to be used on school district
19 design-build projects throughout the state.

20 (c) (1) All subcontracts that were not listed by the design-build
21 entity in accordance with Section 17250.25 shall be awarded by
22 the design-build entity.

23 (2) The design-build entity shall do all of the following:

24 (A) Provide public notice of the availability of work to be
25 subcontracted.

26 (B) Provide a fixed date and time on which the subcontracted
27 work will be awarded.

28 (3) Subcontractors bidding on contracts pursuant to this
29 subdivision shall be afforded the protections contained in Chapter
30 4 (commencing with Section 4100) of Part 1 of Division 2 of the
31 Public Contract Code.

32 (4) In a contract between the design-build entity and a
33 subcontractor, and in a contract between a subcontractor and any
34 subcontractor thereunder, the percentage of the retention proceeds
35 withheld may not exceed the percentage specified in the contract
36 between the school district and the design-build entity. If the
37 design-build entity provides written notice to any subcontractor
38 who is not a member of the design-build entity, prior to or at the
39 time the bid is requested, that a bond may be required and the
40 subcontractor subsequently is unable or refuses to furnish a bond

1 to the design-build entity, then the design-build entity may
2 withhold retention proceeds in excess of the percentage specified
3 in the contract between the school district and the design-build
4 entity from any payment made by the design-build entity to the
5 subcontractor.

6 (5) In accordance with the provisions of applicable state law,
7 the design-build entity may be permitted to substitute securities in
8 lieu of the withholding from progress payments. Substitutions
9 shall be made in accordance with Section 22300 of the Public
10 Contract Code.

11 (d) The school district shall establish and enforce a labor
12 compliance program containing the requirements outlined in
13 Section 1771.5 of the Labor Code or shall contract with a third
14 party to operate a labor compliance program containing the
15 requirements outlined in Section 1771.5 of the Labor Code. This
16 requirement shall not apply to projects where the school district or
17 the design-build entity has entered into a collective bargaining
18 agreement that binds all of the contractors performing work on the
19 project.

20 SEC. 58. Section 19325.1 of the Education Code is amended
21 to read:

22 19325.1. (a) The State Librarian may operate a telephonic
23 reading system, fund the operation of telephonic reading systems
24 operated by qualifying entities, or both.

25 (b) As used in this section, the following terms have the
26 following meanings, unless otherwise indicated:

27 (1) "Telephonic reading system" means a system operated by
28 the State Librarian or a qualifying entity, whereby a caller can hear
29 the reading of material such as newspapers, magazines,
30 newsletters, broadcast media schedules, transit route and schedule
31 information, and other reference or time-sensitive materials, as
32 determined by the operator of the system.

33 (2) "Qualifying entity" means any agency, instrumentality, or
34 political subdivision of the state or any nonprofit organization
35 whose primary mission is to provide services to people who are
36 blind or visually impaired.

37 (c) Qualifying entities that were eligible, as of January 1, 2001,
38 to receive funds from the State Librarian relating to the operation
39 of a telephonic reading system may continue to receive funding
40 from the State Librarian.

(d) The State Librarian, in cooperation with qualifying entities, may expand the type and scope of materials available on telephonic reading systems in order to meet the local, regional, or foreign language needs of print-disabled residents of this state. The State Librarian may also expand the scope of services and availability of telephonic reading services by current methods and technologies or by methods and technologies that may be developed. The State Librarian may inform current and potential patrons of the availability of telephonic reading service through appropriate means, including, but not limited to, direct mailings, direct telephonic contact, and public service announcements.

~~(f)~~—

(e) The State Librarian may enter into contracts or other agreements that he or she determines to be appropriate to provide telephonic reading services pursuant to this section.

SEC. 59. Section 24209.3 of the Education Code is amended to read:

24209.3. (a) Notwithstanding subdivision (a) of Section 24209 and subdivision (d) of Section 24204, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714 or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service performed prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal

1 to two or more years of credited service, shall, upon retirement for
2 service on or after the effective date of this section, receive a
3 service retirement allowance equal to the sum of the following:

4 (A) An amount calculated pursuant to this chapter based on
5 service credit accrued prior to the effective date of the disability
6 retirement, using the member's age at the subsequent service
7 retirement, from which age shall be deducted the total time during
8 which the member was retired for service, and indexed final
9 compensation to the effective date of the initial service retirement.

10 (B) An amount calculated pursuant to this chapter based on the
11 service credit accrued after termination of the disability
12 retirement, using the member's age at the subsequent service
13 retirement, from which age shall be deducted the total time during
14 which the member was retired for service, and final compensation.

15 (C) An amount calculated pursuant to this chapter based on
16 credited service performed subsequent to the most recent
17 reinstatement, using the member's age at the subsequent service
18 retirement, and final compensation.

19 (3) A member who retired pursuant to Section 24211 and who
20 reinstates and performs creditable service, as defined in Section
21 22119.5, after the most recent reinstatement, in an amount equal
22 to two or more years of credited service, shall, upon retirement for
23 service on or after the effective date of this section, receive a
24 service retirement allowance equal to the sum of the following:

25 (A) The greater of (i) the disability allowance the member was
26 receiving immediately prior to termination of that allowance,
27 excluding the children's portion, or (ii) an amount calculated
28 pursuant to this chapter based on service credit accrued prior to the
29 effective date of the disability retirement, using the member's age
30 at the subsequent service retirement, from which age shall be
31 deducted the total time during which the member was retired for
32 service, and final compensation using compensation earnable or
33 projected final compensation or a combination of both.

34 (B) An amount equal to either of the following:

35 (i) For a member who was receiving a benefit pursuant to
36 subdivision (a) of Section 24211, the member's credited service at
37 the time of the retirement pursuant to Section 24211, excluding
38 service credited pursuant to Section 22717 or 22717.5 or Chapter
39 14 (commencing with Section 22800) or Chapter 14.2
40 (commencing with Section 22820).

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, the member's projected service, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820).

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation using compensation earnable or projected final compensation or a combination of both.

(D) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800 or Chapter 14.2 (commencing with Section 22820) or, for credited service performed during the most recent reinstatement, Section 22714, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service credit, excluding service credited pursuant to Section 22717, 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation, using compensation earnable or projected final compensation or a combination of both.

(C) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800 or Chapter 14.2 (commencing with Section 22820) or, for credited service performed during the most recent reinstatement, Section 22714, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, is equal to or greater than the number of years required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump sum payment pursuant to Section 24237 shall be actuarially reduced to reflect that lump sum payment.

SEC. 60. Section 44303 of the Education Code is amended to read:

44303. (a) From funds appropriated for that purpose, the Commission on Teacher Credentialing shall allocate funds to the Los Angeles Unified School District for purposes of implementing a pilot program as set forth in this section.

(b) From funds allocated to it for purposes of this section, the Los Angeles Unified School District may develop a 30-day

1 training program for the teachers it hires on an emergency basis
2 who will be assigned to schools that have 20 percent or more
3 teachers on emergency permits. The training shall be delivered
4 before a teacher hired on an emergency basis begins teaching. A
5 teacher participating in this training shall spend half of the training
6 period observing experienced fully credentialed teachers in a
7 classroom of the same grade level as the teacher being trained.

8 (c) To be eligible to receive funds pursuant to this section, the
9 Los Angeles Unified School District shall demonstrate to the
10 satisfaction of the commission that there currently exists a
11 shortage of fully and appropriately credentialed teachers in the
12 district and that the program developed by the district will train the
13 teachers it hires on an emergency basis to become effective
14 classroom teachers.

15 (d) For purposes of this section, “experienced fully
16 credentialed teacher” means a teacher who holds a clear credential
17 for the subject matter and grade level to which the teacher is
18 assigned and has three years of teaching experience.

19 ~~(e) This section shall remain in effect only until January 1,~~
20 ~~2007, and as of that date is repealed, unless a later enacted statute,~~
21 ~~that is enacted before January 1, 2007, deletes or extends that date.~~

22 ~~(f) The Commission on Teacher Credentialing shall implement~~
23 ~~this section only to the extent that funds are specifically~~
24 ~~appropriated for the purposes of this section in the annual Budget~~
25 ~~Act or any other measure.~~

26 ~~(f) This section shall remain in effect only until January 1,~~
27 ~~2007, and as of that date is repealed, unless a later enacted statute,~~
28 ~~that is enacted before January 1, 2007, deletes or extends that date.~~

29 SEC. 61. Section 44468 of the Education Code is amended to
30 read:

31 44468. (a) An internship program, established pursuant to
32 Article 7.5 (commencing with Section 44325) of Chapter 2 or this
33 article, that is accredited by the commission shall provide interns
34 who meet entrance criteria and are accepted to a multiple subject
35 teaching credential program or a single subject teaching credential
36 program the opportunity to choose an early program completion
37 option, culminating in a five-year preliminary teaching credential.
38 The early completion option shall be made available to interns who
39 meet the following requirements:

(1) Pass a written assessment that assesses knowledge of teaching foundations, is adopted for this purpose by the commission, and includes all of the following:

(A) Human development as it relates to teaching and learning aligned with the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605.

(B) Techniques to address learning differences including working with pupils with special needs.

(C) Techniques to address working with English learners to provide access to the curriculum.

(D) Reading instruction as set forth in paragraph (4) of subdivision (b) of Section 44259.

(E) The assessment of pupil progress based upon the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605 and planning intervention based on the assessment.

(F) Classroom management techniques.

(G) Methods of teaching the subject fields.

(2) Pass the teaching performance assessment as set forth in Section 44320.2.

(A) An intern participating in the early completion option may take the teaching performance assessment ~~one-time~~ only *one time* as part of the early completion option. An intern who takes the teaching performance assessment but is not successful may complete his or her internship program. Scores on this assessment shall be used by the internship programs in providing the individualized professional development plan for interns that emphasizes preparation in areas where additional growth is warranted and waiving preparation in areas where the candidate has demonstrated competence. The intern must retake and pass the teaching performance assessment at the end of the internship in order to be considered for recommendation by the internship program to the commission.

(B) Pending implementation of the teaching performance assessment, an internship program shall provide for early recommendation of an intern for a preliminary multiple subject teaching credential or single subject teaching credential based upon demonstrated competence of the field experience component of the internship program.



(3) Pass the reading instruction competence assessment described in Section 44283, unless the written assessment adopted by the commission pursuant to paragraph (1) is validated as covering content equivalent to the reading assessment.

(4) Meet the requirements for teacher fitness as set forth in Sections 44339, 44340, and 44341.

(b) An intern who chooses the early completion option must first pass the assessment required pursuant to paragraph (1) of subdivision (a) in order to qualify to take the teaching performance assessment required pursuant to paragraph (2) of subdivision (a). Individuals who have passed the written assessment may receive individualized support within the cohort group of like individuals in preparations for the teaching performance assessment.

(c) An intern who challenges the teacher preparation coursework by taking the assessment described in paragraph (1) of subdivision (a) but is not successful in passing the assessment may complete his or her full internship program. Scores on this assessment shall be used by the internship program in providing the individualized professional development plan for interns that emphasizes preparation in areas where additional growth is warranted and waiving preparation areas where the intern has demonstrated competence.

(d) An intern who passes the assessments described in subdivision (a) and is recommended by the internship program to the commission is eligible for a five-year preliminary multiple subject teaching credential or single subject teaching credential.

(e) The commission shall issue a professional clear multiple or single subject teaching credential to an applicant whose employing public school district documents, in a manner prescribed by the commission, that he or she has fulfilled the following requirements:

(1) Holds a preliminary five-year teaching credential issued by the commission.

(2) Completes one of the following in accordance with the determination of the employing public school district based upon the experience and individual needs of the applicant:

(A) A program of beginning teacher support and assessment established pursuant to Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 24, including the California formative assessment and support system for teachers.

(B) An alternative program of beginning teacher induction that the commission determines, in conjunction with the Superintendent of Public Instruction, meets state standards for teacher induction and includes the California formative assessment and support system for teachers or an alternative assessment deemed to meet the standards.

(3) As an alternative to the requirements in paragraph (2), an applicant may choose to complete the California formative assessment and support system for teachers or the equivalent at a faster pace as determined by the Beginning Teacher Support and Assessment System program.

SEC. 62. Section 47634.2 of the Education Code is amended to read:

47634.2. (a) (1) Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction, as defined by paragraph (2) of subdivision (d) of Section 47612.5, including funding provided on the basis of average daily attendance pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the ~~student~~ *pupil* and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

(2) For the 2001–02 fiscal year only, the amount of funding determined by the State Board of Education pursuant to this section shall not be less than 90 percent of the unadjusted amount to which a charter school would otherwise be entitled on the basis of average daily attendance.

(3) For the 2002–03 fiscal year, the amount of funding determined by the State Board of Education pursuant to this

1 section shall not be more than 80 percent of the unadjusted amount
2 to which a charter school would otherwise be entitled, unless the
3 State Board of Education determines that a greater or lesser
4 amount is appropriate based on the criteria specified in paragraph
5 (1) of subdivision (a).

6 (4) For the 2003–04 fiscal year and each fiscal year thereafter,
7 the amount of funding determined by the State Board of Education
8 pursuant to this section shall not be more than 70 percent of the
9 unadjusted amount to which a charter school would otherwise be
10 entitled, unless the State Board of Education determines that a
11 greater or lesser amount is appropriate based on the criteria
12 specified in paragraph (1) of subdivision (a).

13 (5) This section does not authorize the board to adjust the
14 amount of funding a charter school receives on the basis of average
15 daily attendance generated through classroom-based instruction,
16 as defined for purposes of calculating average daily attendance for
17 classroom-based instruction apportionments by paragraph (1) of
18 subdivision (d) of Section 47612.5.

19 (b) (1) The State Board of Education shall appoint an advisory
20 committee to recommend criteria to the board in accordance with
21 this section if it has not done so by the effective date of the act
22 adding this section. The advisory committee shall include, but is
23 not limited to, representatives from school district
24 superintendents, charter schools, teachers, parents, members of
25 the governing boards of school districts, county superintendents of
26 schools, and the Superintendent of Public Instruction.

27 (2) If a charter school submits a substantially complete request
28 for a determination for funding by February 13, 2002, and the State
29 Board of Education does not act on that request by March 19, 2002,
30 full funding is automatically granted for the 2001–02 fiscal year,
31 but the charter school shall reapply for a determination for funding
32 for the 2002–03 fiscal year.

33 (3) The determination for funding shall be on a percentage
34 basis and the superintendent shall implement the determination for
35 funding by reducing the charter school's reported average daily
36 attendance by the determination for funding percentage specified
37 by the State Board of Education.

38 (4) If the State Board of Education denies request for a
39 determination for funding or provides a reduction as authorized by
40 subdivision (a), the board shall, in writing, give the reasons for its

1 denial or reduction and, if appropriate, may describe how any
2 deficiencies or problems may be addressed.

3 (c) Each charter school offering nonclassroom-based
4 instruction shall, in each report provided to the Superintendent of
5 Public Instruction for apportionment purposes, identify the
6 portion of its average daily attendance that is generated through
7 nonclassroom-based instruction as defined in paragraph (2) of
8 subdivision (d) of Section 47612.5.

9 (d) Notwithstanding any other provision of law, charter schools
10 shall be subject, with regard to subdivisions (c) and (d) of Section
11 47612.5 and this section, to audits conducted pursuant to Section
12 41020.

13 SEC. 63. Section 48431.6 of the Education Code is amended
14 to read:

15 48431.6. (a) The governing board of each district
16 maintaining high schools and accepting funds made available for
17 purposes of this section shall establish and maintain a program
18 which ensures that each pupil, upon reaching the age of 16 or prior
19 to the end of the 10th grade, whichever occurs first, has received
20 a systematic review of his or her academic progress and counseling
21 regarding the educational options available to the pupil during the
22 final two years of high school. The program shall be adopted at a
23 public meeting of the governing board; and shall include, but not
24 be limited to, all of the following:

25 ~~(a)–~~

26 (1) Provision for individualized review of the pupil's academic
27 and deportment records.

28 ~~(b)–~~

29 (2) Provision for a meeting with the pupil; and where feasible,
30 with the pupil's parent or guardian, to explain the pupil's record,
31 the educational options available to the pupil, the course work and
32 academic progress needed for satisfactory completion of high
33 school, and the effect of such course work and academic progress
34 upon the pupil's options for postsecondary education and
35 employment. Educational options shall include, but not be limited
36 to, regional occupational centers and programs, continuation
37 schools, academic programs, and any other alternatives available
38 to pupils of the district.

39 ~~(c)–~~

(3) Provision for services of teachers, counselors, and others designated by the governing board to provide the individualized review and assistance to pupils pursuant to ~~subdivisions (a) and (b)~~ *paragraphs (1) and (2)*. To the maximum extent feasible, regional occupational center or program counselors shall actively participate in, and the local business community shall be involved in, career guidance activities.

(b) The program shall give first priority to identifying pupils who are not earning credits at a rate which will enable them to graduate with the rest of their class, and to providing these pupils with counseling services funded pursuant to Section 48431.7.

SEC. 64. Section 49431 of the Education Code is amended to read:

49431. (a) At elementary and middle schools, and in those schools participating in the pilot program created pursuant to Section 49433.7, the sale of all foods on school grounds shall be approved for compliance with the nutrition standards in the section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) (1) At elementary schools, the only food that may be sold to pupils during breakfast and lunch periods is food that is sold as a full meal. This paragraph does not prohibit the sale of fruit, nonfried vegetables, legumes, beverages, dairy products, or grain products, as individual food items if they meet the requirements set forth in this subdivision.

(2) An individual food item sold to a pupil during morning or afternoon breaks at elementary schools shall meet all of the following standards:

(A) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.

(B) Not more than 10 percent of its total calories shall be from saturated fat.

(C) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.

(3) Regardless of the time of day, water, milk, ~~100-percent~~ *100-percent* fruit juices, or fruit-based drinks that are composed of no less than ~~50-percent~~ *50-percent* fruit juice and that have no added sweeteners are the only beverages that may be sold to pupils at an elementary school.

1 (c) In middle schools, from one-half hour before the start of the
2 schoolday until after the end of the last lunch period, no carbonated
3 beverage shall be sold to pupils.

4 (d) At middle schools, vending machines that contain beverage
5 items that do not meet the requirements in this section shall remain
6 locked or be rendered inoperable until after the end of the last
7 lunch period.

8 (e) An elementary school may permit the sale of food items that
9 do not comply with subdivisions (a) to (f), inclusive, of this section
10 as part of a school fundraising event in any of the following
11 circumstances:

12 (1) By pupils of the school if the sale of those items takes place
13 off of school premises.

14 (2) By pupils of the school if the sale of those items takes place
15 at least one-half hour after the end of the schoolday.

16 (f) Notwithstanding Article 3 (commencing with Section
17 33050) of Chapter 1 of Part 20, this section shall not be waived
18 pursuant to that article.

19 (g) Although a middle school is required to comply with those
20 provisions of this section applicable to middle schools, it may, in
21 addition, elect to apply for participation in the pilot program
22 pursuant to Section 49433.7.

23 (h) This section shall become operative on January 1, 2004.
24 School districts shall be required to comply with this section only
25 if funds are appropriated in the Budget Act of 2003 for the
26 purposes of providing support and technical assistance to school
27 districts as set forth in Section 49433.5, for the purposes of
28 providing grants to participating school districts as set forth in
29 subdivision (c) of Section 49433, and for the purposes of
30 increasing meal reimbursements as set forth in Section 49430.5.
31 The State Department of Education shall file a written statement
32 with the Secretary of the Senate and the Chief Clerk of the
33 Assembly within 30 days after enactment of the Budget Act of
34 2003 stating whether funds have been appropriated as set forth in
35 this subdivision and in Section 49430.5.

36 SEC. 65. Section 49433.9 of the Education Code is amended
37 to read:

38 49433.9. A school district participating in the pilot program
39 shall comply with all of the following requirements:

(a) (1) No beverage other than any of the following shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday:

(A) Fruit-based drinks that are composed of no less than ~~50 percent~~ 50-percent fruit juice and that have no added sweeteners.

(B) Drinking water.

(C) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(D) Electrolyte replacement beverages that do not contain more than 42 grams of added sweetener per 20 ounce serving.

(2) No carbonated beverage shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday.

(3) (A) Except as set forth in subparagraph (B), no beverage that exceeds 12 ounces per serving shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday.

(B) The 12-ounce maximum serving requirement does not apply to any of the following:

(i) Drinking water.

(ii) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(iii) An electrolyte replacement beverage. An electrolyte replacement beverage shall not exceed 20 ounces per serving.

(4) For the purposes of this subdivision and paragraph (3) of subdivision (b) of Section ~~494312~~ 49431, “added sweetener” means any additive that enhances the sweetness of the beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.

(b) No food item shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday unless it does not exceed 12 ounces per serving and it meets all of the standards set forth in subparagraphs (A) to (C) of paragraph (2) of Section 49431.

(c) Entree items and side dish serving sizes shall be no larger than the portions of those foods served as part of the federal school meal program.

(d) Fruit and nonfried vegetables shall be offered for sale at any location where food is sold.

1 SEC. 66. Section 51727 of the Education Code is amended to
2 read:

3 51727. (a) The Superintendent of Public Instruction shall
4 accept applications and award grants in two phases.

5 (1) Not more than five grants shall be awarded in the first
6 phase. Applications shall be due February 1, 2002. The
7 Superintendent of *Public* Instruction shall complete the review of
8 applications pursuant to subdivision (c) of Section 51726 and
9 make awards pursuant to subdivision (d) of Section 51726 no later
10 than March 31, 2002. The proposed high-tech high school for
11 which a school district or charter school receives funding shall be
12 operational by September 30, 2002. If the Superintendent of
13 Public Instruction does not receive five applications that merit
14 funding pursuant to subdivision (c) of Section 51726, some or all
15 of the phase one grants may be delayed until the second phase with
16 the approval of the State Board of Education.

17 (2) The remaining grants shall be awarded in the second phase.
18 Applications shall be submitted by February 1, 2003. The
19 Superintendent of Public Instruction shall complete the review of
20 applications pursuant to subdivision (c) of Section 51726 and
21 make awards pursuant to subdivision (d) of Section 51726 no later
22 than March 31, 2003. The proposed high-tech high school for
23 which a school district or charter school receives funding shall be
24 operational by September 30, 2003.

25 (b) The Superintendent of Public Instruction, with the approval
26 of the State Board of Education, may, upon a showing of good
27 cause and if necessary, extend any of the following dates:

28 (1) The deadline for application submission.

29 (2) The date the grant award is to be made.

30 (3) The date by which a high-tech high school is to be
31 operational.

32 (c) If a grant recipient fails to make the high-tech high school
33 operational by the specified date, the Superintendent of Public
34 Instruction, with the approval of the State Board of Education may
35 rescind the grant award and award the grant funds to another
36 eligible grant recipient as determined by the Superintendent of
37 Public Instruction, with the approval of the State Board of
38 Education.

39 (d) If the grant funds awarded pursuant to this article are not
40 used towards the establishment and implementation of a new

1 high-tech high school, the Superintendent of Public Instruction
2 shall withhold an amount equal to the funds the school district or
3 charter school received pursuant to this article from the next
4 monthly principal apportionment payment. Superintendent of
5 Public Instruction shall conduct compliance visits as required to
6 ensure that the funds are used appropriately.

7 SEC. 67. Section 56404 of the Education Code is amended to
8 read:

9 56404. To be eligible to receive funding to establish Family
10 Empowerment Centers on Disability pursuant to this chapter,
11 applicants shall meet the following organizational requirements:

12 (a) Be a nonprofit charitable organization organized under the
13 Internal Revenue Code pursuant to paragraph (3) of subdivision
14 (c) of Section ~~503~~ 501 of Title 26 of the United States Code.

15 (b) Be staffed primarily by parents, guardians, and family
16 members of children and young adults with disabilities and by
17 adults with disabilities.

18 (c) Have as a majority of board members of each center,
19 parents, guardians, and family members of children and young
20 adults with disabilities who have experience with local or regional
21 disability systems and educational resources. Additional members
22 shall include, but not be limited to, persons with disabilities and
23 representatives of community agencies serving adults with
24 disabilities, and other community agencies.

25 (d) Demonstrate the capacity to provide services in accordance
26 with the family support guidelines developed by the Early Start
27 Family Resource Centers pursuant to Section 95004 of the
28 Government Code and administered by the State Department of
29 Developmental Services, and Parent Training Information Centers
30 established pursuant to Sections 1482 and 1483 of Title 20 of the
31 United States Code.

32 SEC. 68. Section 64001 of the Education Code is amended to
33 read:

34 64001. (a) Notwithstanding any other provision of law,
35 school districts shall not be required to submit to the State
36 Department of Education, as part of the consolidated application,
37 school plans for categorical programs subject to this part. School
38 districts shall assure, in the consolidated application, that the
39 Single Plan for Pupil Achievement established pursuant to
40 subdivision (d) has been prepared in accordance with law, that

1 schoolsite councils have developed and approved a plan, to be
2 known as the Single Plan for Pupil Achievement for schools
3 participating in programs funded through the consolidated
4 application process, and any other school program they choose to
5 include, and that school plans were developed with the review,
6 certification, and advice of any applicable school advisory
7 committees. The Single Plan for Pupil Achievement may also be
8 referred to as the Single Plan for Student Achievement. The
9 consolidated application shall also include certifications by
10 appropriate district advisory committees that the application was
11 developed with review and advice of those committees.

12 For any consolidated application that does not include the
13 necessary certifications or assurances, the State Department of
14 Education shall initiate an investigation to determine whether the
15 consolidated application and Single Plan for Pupil Achievement
16 were developed in accordance with law and with the involvement
17 of applicable advisory committees and schoolsite councils.

18 (b) Onsite school and district compliance reviews of
19 categorical programs shall continue, and school plans shall be
20 required and reviewed as part of these onsite visits and compliance
21 reviews. The Superintendent of Public Instruction shall establish,
22 the process, and frequency for conducting reviews of district
23 achievement and compliance with state and federal categorical
24 program requirements. In addition, the Superintendent of Public
25 Instruction shall establish the content of these instruments,
26 including any criteria for differentiating these reviews based on the
27 achievement of pupils, as demonstrated by the Academic
28 Performance Index developed pursuant to Section 52052, and
29 evidence of district compliance with state and federal law. The
30 State Board of Education shall review the content of these
31 instruments for consistency with State Board of Education policy.

32 (c) A school district shall submit school plans whenever the
33 State Department of Education requires the plans in order to
34 effectively administer any categorical program subject to this part.
35 The State Department of Education may require submission of the
36 school plan for any school that is the specific subject of a complaint
37 involving any categorical program or service subject to this part.

38 The State Department of Education may require a school district
39 to submit other data or information as may be necessary for the

1 department to effectively administer any categorical program
2 subject to this part.

3 (d) Notwithstanding any other provision of law, as a condition
4 of receiving state funding for a categorical program pursuant to
5 Section 64000, and in lieu of the information submission
6 requirements that were previously required by this section prior to
7 the amendments that added this subdivision and subdivisions (e)
8 to (i), inclusive, school districts shall ensure that each school in a
9 district that operates any categorical programs subject to this part
10 consolidates any plans that are required by those programs into a
11 single plan. Schools may consolidate any plans that are required
12 by federal programs subject to this part into this plan, unless
13 otherwise prohibited ~~to~~ by federal law. That plan shall be known
14 as the Single Plan for Pupil Achievement or may be referred to as
15 the Single Plan for Student Achievement.

16 (e) Plans developed pursuant to subdivision (d) of Section
17 52054, and Section 6314 and following of Title 20 of the United
18 States Code, shall satisfy this requirement.

19 (f) Notwithstanding any other provision of law, the content of
20 a Single Plan for Pupil Achievement shall be aligned with school
21 goals for improving pupil achievement. School goals shall be
22 based upon an analysis of verifiable state data, including the
23 Academic Performance Index developed pursuant to Section
24 52052 and the English Language Development test developed
25 pursuant to Section 60810, and may include any data voluntarily
26 developed by districts to measure pupil achievement. The Single
27 Plan for Pupil Achievement shall, at a minimum, address how
28 funds provided to the school through any of the sources identified
29 in Section 64000 will be used to improve the academic
30 performance of all pupils to the level of the performance goals, as
31 established by the Academic Performance Index developed
32 pursuant to Section 52052. The plan shall also identify the schools'
33 means of evaluating progress toward accomplishing those goals
34 and how state and federal law governing these programs will be
35 implemented.

36 (g) The plan required by this section shall be reviewed annually
37 and updated, including proposed expenditure of funds allocated to
38 the school through the consolidated application, by the schoolsite
39 council, or, if the school does not have a schoolsite council, by
40 schoolwide advisory groups or school support groups that



1 conform to the requirements of Section 52012. The plans shall be
2 reviewed and approved by the governing board of the local
3 education agency at a regularly scheduled meeting whenever there
4 are material changes that affect the academic programs for
5 students covered by programs identified in Section 64000.

6 (h) The school plan and subsequent revisions shall be reviewed
7 and approved by the governing board of the school district. School
8 district governing boards shall certify that, to the extent allowable
9 under federal law, plans developed for purposes of this section are
10 consistent with district local improvement plans that are required
11 as a condition of receiving federal funding.

12 (i) Nothing in this act may be construed to prevent a school
13 district, at its discretion, from conducting an independent review
14 pursuant to subdivision (c) of Section 64001 as that section read
15 on January 1, 2001.

16 SEC. 69. Section 89005.5 of the Education Code is amended
17 to read:

18 89005.5. (a) (1) All of the following names are the property
19 of the state:

20 (A) "California State University."

21 (B) The names of all educational institutions in the state with
22 names containing the words "California State University."

23 (C) All of the following names:

24 (i) "California Polytechnic State University, San Luis
25 Obispo."

26 (ii) "California State Polytechnic University, Pomona."

27 (iii) "California Maritime Academy."

28 (iv) "Humboldt State University."

29 (v) "Sonoma State University."

30 (vi) "San Francisco State University."

31 (vii) "San Jose State University."

32 (viii) "San Diego State University."

33 (D) Abbreviations of names listed in subparagraphs (A), (B),
34 and (C), including, but not necessarily limited to, all of the
35 following:

36 (i) "Cal State."

37 (ii) "Cal Maritime."

38 (iii) "Humboldt State."

39 (iv) "Sonoma State."

40 (v) "San Francisco State."

1 (vi) “San Jose State.”

2 (vii) “San Diego State.”

3 (viii) “Cal Poly.”

4 (ix) “CSU.”

5 (2) No person shall, without the permission of the Trustees of
6 the California State University, use this name, or any abbreviation
7 of it or any name of which these words are a part, in any of the
8 following ways:

9 (A) To designate any business, social, political, religious, or
10 other organization, including, but not limited to, any corporation,
11 firm, partnership, association, group, activity, or enterprise.

12 (B) To imply, indicate, or otherwise suggest that any product,
13 service, or organization is connected or affiliated with, or is
14 endorsed, favored, or supported by, or is opposed by the Trustees
15 of the California State University or any educational institution
16 administered by the trustees. The permission of the trustees is
17 required before any name listed in this subdivision may be used for
18 any commercial purpose.

19 (C) To display, advertise, or announce this name publicly at, or
20 in connection with, any meeting, assembly, or demonstration, or
21 any propaganda, advertising, or promotional activity of any kind
22 which has for its purpose or any part of its purpose the support,
23 endorsement, advancement, opposition, or defeat of any strike,
24 lockout, or boycott or of any political, religious, sociological, or
25 economic movement, activity, or program.

26 (b) However, nothing in this section shall interfere with *any*
27 *person who makes*, or restrict the right of, any person to make, a
28 true and accurate statement of his or her present or former
29 relationship or connection with, his or her employment by, or his
30 or her enrollment in, the California State University in the course
31 of stating his or her experience or qualifications for any academic,
32 governmental, business, or professional credit or enrollment, or in
33 connection with any academic, governmental, professional, or
34 other employment whatsoever.

35 (c) Every person violating this section is guilty of a
36 misdemeanor.

37 SEC. 70. Section 92665.1 of the Education Code is amended
38 and renumbered to read:

39 ~~92665.1.~~

1 92655.1. The Legislature requests the Regents of the
2 University of California, to the extent possible, to use existing
3 resources to establish dental, medical, and optometric health
4 professions outreach and exposure programs for elementary, high
5 school, and undergraduate students, including community college
6 students.

7 SEC. 71. Section 94945 of the Education Code is amended to
8 read:

9 94945. (a) The bureau shall assess each institution, except for
10 an institution that receives all of its students' total charges, as
11 defined in subdivision (k) of Section 94852, from third-party
12 payers. A third-party payer, for the purposes of this section, means
13 an employer, government program, or other payer that pays a
14 student's total charges directly to the institution when no separate
15 agreement for the repayment of that payment exists between the
16 third-party payer and the student. A student who receives
17 third-party payer benefits for his or her institutional charges is not
18 eligible for benefits from the Student Tuition Recovery Fund.

19 (1) The amount assessed each institution shall be calculated
20 only for those students who are California residents and who are
21 eligible to be reimbursed from the fund. It shall be based on the
22 actual amount charged each of these students for total tuition cost,
23 regardless of the portion that is prepaid. The amount of the
24 assessment on an institution shall be determined in accordance
25 with ~~paragraph~~ *paragraphs* (2) and (3). Each institution shall
26 collect the amount assessed by the bureau in the form of a Student
27 Tuition Recovery Fund fee from its new students, and remit these
28 fees to the bureau during the quarter immediately following the
29 quarter in which the fees were collected from the students. An
30 institution may not charge a fee of any kind for the collection of
31 the Student Tuition Recovery Fund fee. An institution may refuse
32 to enroll a student who has not paid, or made provisions to pay, the
33 appropriate Student Tuition Recovery Fund fee.

34 (2) The amount collected from a new student by an institution
35 shall be calculated on the basis of the course tuition paid over the
36 current calendar year. For purposes of annualized payment, a new
37 student enrolled in a course of instruction that is longer than one
38 calendar year in duration shall pay fees for the Student Tuition
39 Recovery Fund based on the amount of tuition collected during the
40 current calendar year.

(3) The assessment made pursuant to this section shall be made in accordance with both of the following:

(A) Each new student shall pay a Student Tuition Recovery Fund assessment for the period of January 1, 2002, to December 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand dollars of tuition paid, rounded to the nearest thousand dollars.

(B) Commencing January 1, 2003, Student Tuition Recovery Fund fees shall be collected from new students at the rate of two dollars and fifty cents (\$2.50) per thousand dollars of tuition paid, rounded to the nearest thousand dollars.

(4) The bureau may levy additional reasonable special assessments on an institution under this section only if these assessments are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94944.

(5) (A) The bureau may not levy a special assessment unless the balance in any account in the Student Tuition Recovery Fund falls below two hundred fifty thousand dollars (\$250,000), as certified by the Secretary of the State and Consumer Services Agency.

(B) A special assessment is a surcharge, collected by each institution from newly enrolled students, of up to 100 percent of that institution's regular assessment for four consecutive quarters. The affected student shall pay the surcharge simultaneously with his or her regular quarterly payment to the Student Tuition Recovery Fund.

(C) The bureau shall provide at least 90 days' notice of an impending special assessment to each affected institution. This notice shall also be posted on the bureau's Internet Web site.

(D) The bureau may apply any special assessment payments that it receives from an institution as a credit toward that institution's current or future obligations to the Student Tuition Recovery Fund.

(6) The assessments shall be paid into the Student Tuition Recovery Fund and credited to the appropriate account in the fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments for the degree-granting postsecondary educational institution account shall be levied during any fiscal year if, as of

1 June 30 of the prior fiscal year, the balance in that account of the
2 fund exceeds one million five hundred thousand dollars
3 (\$1,500,000). Unless additional reasonable assessments are
4 required, no assessments for the vocational educational institution
5 account shall be levied during any fiscal year if, as of June 30 of
6 the prior fiscal year, the balance in that account exceeds four
7 million five hundred thousand dollars (\$4,500,000). However,
8 regardless of the balance in the fund, assessments shall be made on
9 any newly approved institution. Notwithstanding Section 13340
10 of the Government Code, the moneys so deposited in the fund are
11 continuously appropriated to the bureau for the purpose of paying
12 claims to students pursuant to Section 94944.

13 (b) The bureau may deduct from the fund the reasonable costs
14 of administration of the tuition recovery program authorized by
15 Section 94944 and this section. The maximum amount of
16 administrative costs that may be deducted from the fund, in a fiscal
17 year, shall not exceed one hundred thousand dollars (\$100,000)
18 from the degree-granting postsecondary educational institution
19 account and three hundred thousand dollars (\$300,000) from the
20 vocational educational institution account, plus the interest earned
21 on money in the fund that is credited to the fund. Prior to the
22 bureau's expenditure of any amount in excess of one hundred
23 thousand dollars (\$100,000) from the fund for administration of
24 the tuition recovery program, the bureau shall develop a plan
25 itemizing that expenditure. The plan shall be subject to the
26 approval of the Department of Finance. Institutions, except for
27 schools of cosmetology licensed pursuant to Article 8
28 (commencing with Section 7362) of Chapter 10 of Division 3 of
29 the Business and Professions Code and institutions that offer
30 vocational or job training programs, that meet the student tuition
31 indemnification requirements of a California state agency, that
32 secure a policy of surety or insurance from an admitted insurer
33 protecting their students against loss of paid tuition, or that
34 demonstrate to the bureau that an acceptable alternative method of
35 protecting their students against loss of prepaid tuition has been
36 established, shall be exempted from this section.

37 (c) Reasonable costs in addition to those permitted under
38 subdivision (b) may be deducted from the fund for any of the
39 following purposes:

1 (1) To make and maintain copies of student records from
2 institutions that close.

3 (2) To reimburse the bureau or a third party serving as the
4 custodian of records.

5 (d) In the event of a closure by any approved institution under
6 this chapter, any assessments that have been made against those
7 institutions, but have not been paid into the fund, shall be
8 recovered. Any payments from the fund made to students on
9 behalf of any institution shall be recovered from that institution.

10 (e) In addition to civil remedies, the bureau may order an
11 institution to pay previously unpaid assessments or to reimburse
12 the bureau for any payments made from the fund in connection
13 with the institution. Before any order is made pursuant to this
14 section, the bureau shall provide written notice to the institution
15 and notice of the institution's right to request a hearing within 30
16 days of the service of the notice. If a hearing is not requested within
17 30 days of the service of the notice, the bureau may order payment.
18 If a hearing is requested, Chapter 5 (commencing with Section
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code
20 shall apply, and the bureau shall have all powers prescribed in that
21 chapter. Within 30 days after the effective date of the issuance of
22 the order, the bureau may enforce the order in the same manner as
23 if it were a money judgment pursuant to Title 9 (commencing with
24 Section 680.010) of Part 2 of the Code of Civil Procedure.

25 (f) In addition to any other action that the bureau may take
26 under this chapter, the bureau may suspend or revoke an
27 institution's approval to operate because of the institution's failure
28 to pay assessments when due or failure to pay reimbursement for
29 any payments made from the fund within 30 days of the bureau's
30 demand for payment.

31 (g) The moneys deposited in the fund shall be exempt from
32 execution and shall not be the subject of litigation or liability on
33 the part of creditors of those institutions or students.

34 SEC. 72. Section 99226 of the Education Code is amended to
35 read:

36 99226. (a) This article shall apply to the University of
37 California only during periods for which the Legislature has
38 appropriated funds therefor in the annual Budget Act and the
39 Regents of the University of California have accepted the funds.



(b) This article shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

(c) The Regents of the University of California are requested to jointly develop with the Trustees of California State University and the independent colleges and universities, the institutes described in this article, to be administered by the University of California, in partnership with the California State University and with private, independent universities in California.

(d) Each participant who satisfactorily completes an institute authorized by this article shall receive a stipend commensurate with the duration of the institute, of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), as determined by the University of California. However, in making this determination, the University of California may not exceed the amount provided in the Budget Act for stipends for each of the institutes authorized by this article and must serve at each institute the number of participants specified pursuant to this section.

(e) Commencing July 2001, and each fiscal year thereafter, the number of participants receiving instruction through each of these institutes shall be designated in the annual Budget Act.

(f) These institutes shall be developed in accordance with all of the criteria specified in each section, as described therein.

(g) Notwithstanding any other provision of law, on a case-to-case basis, and subject to the concurrence of the State Board of Education that priorities for service to high-need schools are met, the University of California and the programs authorized pursuant to Sections 99220 through 99226, inclusive, may serve ~~teachers in prekindergarten through grade 12~~ *prekindergarten teachers, kindergarten teachers, and teachers of grades 1 to 12, inclusive*, in participating school districts with programs in reading or mathematics when the average of the reading or mathematics portions of the achievement test authorized pursuant to Section 60640 is at or below the priority level for service in schools otherwise served by the California Professional Development Institutes.

SEC. 73. Section 1405 of the Elections Code is amended to read:

1405. (a) Except as provided below, the election for a county, municipal, or district initiative that qualifies pursuant to Section

1 9116, 9214, or 9310 shall be held not less than 88 nor more than
2 103 days after the date of the order of election.

3 (1) When it is legally possible to hold a special election on an
4 initiative measure that has qualified pursuant to Section 9116,
5 9214, or 9310 within 180 days prior to a regular or special election
6 occurring wholly or partially within the same territory, the election
7 on the initiative measure may be held on the same date as, and be
8 consolidated with, that regular or special election.

9 (2) When it is legally possible to hold a special election on an
10 initiative measure that has qualified pursuant to Section 9116,
11 9214, or 9310 during the period between a regularly scheduled
12 statewide direct primary election and a regularly scheduled
13 statewide general election in the same year, the election on the
14 initiative measure may be held on the same date as, and be
15 consolidated with, the statewide general election.

16 (3) To avoid holding more than one special election within any
17 180-day period, the date for holding the special election on an
18 initiative measure that has qualified pursuant to Section 9116,
19 9214, or 9310, may be fixed later than 103 days but at as early a
20 date as practicable after the expiration of 180 days from the last
21 special election.

22 (4) Not more than one special election for an initiative measure
23 that qualifies pursuant to Section 9116, 9214, or 9310 may be held
24 by a jurisdiction during any period of 180 days.

25 (b) The election for a county initiative that qualifies pursuant
26 to Section 9118 shall be held at the next statewide election
27 occurring not less ~~that~~ than 88 days after the date of the order of
28 election. The election for a municipal or district initiative that
29 qualifies pursuant to Section 9215 or 9311 shall be held at the
30 jurisdiction's next regular election occurring not less than 88 days
31 after the date of the order of election.

32 SEC. 74. Section 2185 of the Elections Code is amended to
33 read:

34 2185. Upon written demand of the ~~chairman~~ chair or vice
35 ~~chairman~~ chair of a party state central committee or of the
36 ~~chairman~~ chair of a party county central committee, the county
37 elections official shall furnish to each committee, without charge
38 therefor, the index of registration for the primary and general
39 elections or for any special election at which a partisan office is to
40 be filled. The index of registration shall be furnished to the

1 committee demanding the ~~indexes~~ *index* not less than 25 days prior
2 to the day of the primary, general, or special election for which
3 they are provided. Upon written demand, the county elections
4 official shall also furnish to the committee the index of registration
5 of voters who registered after the 54th day before the election,
6 which shall be compiled and prepared by Assembly districts. The
7 county elections official shall furnish either two printed copies or,
8 if available, one copy in an electronic form of the indexes specified
9 in this section.

10 SEC. 75. Section 3017 of the Elections Code is amended to
11 read:

12 3017. (a) All absentee ballots cast under this division shall be
13 voted on or before the day of the election. After marking the ballot,
14 the absent voter shall either: (1) return the ballot by mail or in
15 person to the elections official from whom it came or (2) return the
16 ballot in person to any member of a precinct board at any polling
17 place within the jurisdiction. However, an absent voter who,
18 because of illness or other physical disability, is unable to return
19 the ballot, may designate his or her spouse, child, parent,
20 grandparent, grandchild, brother, sister, or a person residing in the
21 same household as the absent voter to return the ballot to the
22 elections official from whom it came or to the precinct board at any
23 polling place within the jurisdiction. The ballot must, however, be
24 received by either the elections official from whom it came or the
25 precinct board before the close of the polls on election day.

26 (b) The elections official shall establish procedures to insure
27 the secrecy of any ballot returned to a precinct polling place.

28 (c) The provisions of this section are mandatory, not directory,
29 and no ballot shall be counted if it is not delivered in compliance
30 with this section.

31 (d) Notwithstanding subdivision (a), no absent voter's ballot
32 shall be returned by any paid or volunteer worker of any general
33 purpose committee, controlled committee, independent
34 expenditure committee, political party, candidate's campaign
35 committee, or any other group or organization at whose behest the
36 individual designated to return the ballot is performing a service.
37 However, this subdivision shall not apply to a candidate or a
38 candidate's spouse.

39 SEC. 76. Section 3201 of the Elections Code is amended to
40 read:

1 3201. Any voter may apply for permanent absent voter status.
2 Application for permanent absent voter status shall be made in
3 accordance with Section 3001. The voter shall complete an
4 application, which shall be available from the county elections
5 official, and which shall contain all of the following:

6 (a) ~~Applicant's~~ *The applicant's* name at length.

7 (b) ~~Applicant's~~ *The applicant's* residence address.

8 (c) ~~Address~~ *The address* where ballot is to be mailed, if
9 different from the place of residence.

10 (d) The signature of the applicant.

11 SEC. 77. Section 13102 of the Elections Code is amended to
12 read:

13 13102. (a) All voting shall be by ballot. There shall be
14 provided, at each polling place, at each election at which public
15 officers are to be voted for, but one form of ballot for all candidates
16 for public office, except that, for partisan primary elections, one
17 form of ballot shall be provided for each qualified political party
18 as well as one form of nonpartisan ballot, in accordance with
19 subdivision (b).

20 (b) At partisan primary elections, each voter not registered as
21 intending to affiliate with any one of the political parties
22 participating in the election shall be furnished only a nonpartisan
23 ballot, unless he or she requests a ballot of a political party and that
24 political party, by party rule duly noticed to the Secretary of State,
25 authorizes a person who has declined to state a party affiliation to
26 vote the ballot of that political party. The nonpartisan ballot shall
27 contain only the names of all candidates for nonpartisan offices
28 and measures to be voted for at the primary election. Each voter
29 registered as intending to affiliate with a political party
30 participating in the election shall be furnished only a ballot of the
31 political party with which he or she is registered and the
32 nonpartisan ballot, both of which shall be printed together as one
33 ballot in the form prescribed by Section 13207.

34 (c) A political party may adopt a party rule in accordance with
35 subdivision (b) that authorizes a person who has declined to state
36 a party affiliation to vote the ballot of that political party at the next
37 ensuing partisan primary election. The political party shall notify
38 the party-~~chairman~~ *chair* immediately upon adoption of that party
39 rule. The party-~~chairman~~ *chair* shall provide written notice of the
40 adoption of that rule to the Secretary of State not later than the

1 135th day prior to the partisan primary election at which the vote
2 is authorized.

3 SEC. 78. A heading is added to Chapter 2 (commencing with
4 Section 21100) of Division 21 of the Elections Code, to read:

5
6 CHAPTER 2. SENATE DISTRICTS
7

8 SEC. 79. Section 8814.5 of the Family Code is amended to
9 read:

10 8814.5. (a) After a consent to the adoption is signed by the
11 birth parent or parents pursuant to Section 8801.3 or 8814, the
12 birth parent or parents signing the consent shall have 30 days to
13 take one of the following actions:

14 (1) Sign and deliver to the department or delegated county
15 adoption agency a written statement revoking the consent and
16 requesting the child to be returned to the birth parent or parents.
17 After revoking consent, in cases where the birth parent or parents
18 have not regained custody, or the birth parent or parents have failed
19 to make efforts to exercise their rights under subdivision (b) of
20 Section 8815, a written notarized statement reinstating the original
21 consent may be signed and delivered to the department or
22 delegated county adoption agency, in which case the revocation of
23 consent shall be void and a new 30-day period shall commence.
24 After revoking consent, in cases in which the birth parent or
25 parents have regained custody, upon the delivery of a written
26 notarized statement reinstating the original consent to the
27 department or delegated county adoption agency, the revocation
28 of consent shall be void and a new 30-day period shall commence.
29 The birth mother shall be informed of the operational timelines
30 associated with this section at the time of signing of the statement
31 reinstating the original consent.

32 (2) (A) Sign a waiver of the right to revoke consent on a form
33 prescribed by the department in the presence of a representative of
34 the department or delegated county adoption agency. If neither a
35 representative of the department nor a representative of a
36 delegated county adoption agency is reasonably available, the
37 waiver of the right to revoke consent may be signed in the presence
38 of a judicial officer of a court of record if the birth parent is
39 represented by independent legal counsel. “Reasonably
40 available” means that a representative from either the department

1 or the delegated county adoption agency is available to accept the
2 signing of the waiver within 10 days and is within 100 miles of the
3 location of the birth mother.

4 (B) An adoption service provider may assist the birth parent or
5 parents in any activity where the primary purpose of that activity
6 is to facilitate the signing of the waiver with the department, a
7 delegated county agency, or a judicial officer. The adoption service
8 provider or another person designated by the birth parent or
9 parents may also be present at any interview conducted pursuant
10 to this section to provide support to the birth parent or parents.

11 (C) The waiver of the right to revoke consent may not be signed
12 until an interview has been completed by the department or
13 delegated county adoption agency unless the waiver of the right to
14 revoke consent is signed in the presence of a judicial officer of a
15 court of record as specified in this section, in which case the
16 interview and the witnessing of the signing of the waiver shall be
17 conducted by the judicial officer. Within 10 working days of a
18 request made after the department, the delegated county adoption
19 agency, or the court has received a copy of the petition for the
20 adoption and the names and addresses of the persons to be
21 interviewed, the department, the delegated county adoption
22 agency, or the court shall interview, at the department or agency
23 office or the court, any birth parent requesting to be interviewed.
24 However, the interview, and the witnessing of the signing of a
25 waiver of the right to revoke consent of a birth parent residing
26 outside of California or located outside of California for an
27 extended period of time unrelated to the adoption may be
28 conducted in the state where the birth parent is located, by any of
29 the following:

30 ~~(A)~~

31 (i) A representative of a public adoption agency in that state.

32 ~~(B)~~

33 (ii) A judicial officer in that state where the birth parent is
34 represented by independent legal counsel.

35 ~~(C)~~

36 (iii) An adoption service provider.

37 (3) Allow the consent to become a permanent consent on the
38 31st day after signing.

39 (b) The consent may not be revoked after a waiver of the right
40 to revoke consent has been signed or after 30 days, beginning on

1 the date the consent was signed or as provided in paragraph (1) of
2 subdivision (a), whichever occurs first.

3 SEC. 80. Section 21200.1 of the Financial Code is amended
4 to read:

5 21200.1. A loan setup fee not to exceed three dollars (\$3) may
6 be charged for each loan; up to and including fifty dollars (\$50).
7 A loan setup fee of five dollars (\$5) may be charged for loans in
8 excess of fifty dollars (\$50). Loan setup fees are in addition to any
9 other allowed charges.

10 SEC. 81. Section 1103 of the Food and Agricultural Code is
11 amended to read:

12 1103. For the purposes of this part, the following definitions
13 apply:

14 (a) “Agency” means the *California Technology, Trade, and*
15 *Commerce Agency*.

16 (b) “Air district” means an air pollution control district or an
17 air quality management district established or continued in
18 existence pursuant to Part 3 (commencing with Section 40000) of
19 the Health and Safety Code.

20 (c) “Facility” means any California site that meets both of the
21 following criteria:

22 (1) As of July 1, 2000, converted and continues to convert
23 qualified agricultural biomass to energy, or that operated prior to
24 July 1, 2000, converting qualified agricultural biomass to energy,
25 was closed for a period of time but maintained all applicable air
26 quality permits during that closure, and is ready to reopen on or
27 before June 30, 2001, and, in both cases, the conversion results in
28 lower oxides of nitrogen (NO_x) emissions than would otherwise
29 be produced if burned in the open field during the ozone season,
30 as determined by the air district in which the site operates.

31 (2) Does not produce electricity for sale to a public utility
32 pursuant to a contract with that public utility, or, if the site does
33 produce electricity for sale to a public utility pursuant to a contract
34 with that public utility, the site does not qualify for fixed energy
35 prices established prior to June 30, 2000, under the terms of that
36 contract at the time the application for the grant is made.

37 (d) “Grant” means an award of funds by the agency to an air
38 district that shall, in turn, grant incentive payments to a facility
39 after deducting the air district’s administrative fee as provided in
40 Section 1104.

(e) “Incentive payment” means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars (\$10) for each ton of qualified agricultural biomass received for conversion to energy.

(f) “Qualified agricultural biomass” means agricultural residues that historically have been open field burned in the jurisdiction of the air district from which the agricultural residues are derived, as determined by the air district, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

SEC. 82. Section 6047.7 of the Food and Agricultural Code is amended to read:

6047.7. (a) During the first marketing season, beginning July 1, 2001, and ending June 30, 2002, the annual assessment shall be three dollars (\$3) for each one thousand dollars (\$1,000) assessed pursuant to Section 6047.9 for all grapes subject to assessment under this article. The department shall notify each processor of the established assessment as soon as practicable. For each marketing season thereafter the following shall apply:

(1) An annual assessment shall be recommended by the board and submitted to the department for approval in an amount not to exceed three dollars (\$3) for each one thousand dollars (\$1,000) assessed pursuant to Section 6047.9 for all grapes subject to assessment under this article.

(2) The department shall notify each processor of the established assessment rate by July 15, or as soon thereafter as possible.

(b) In no event shall there be an assessment on the following:

(1) Material other than grapes, and defects, or other weight adjustments deducted from the gross weight ticket.

(2) Any raisin-distilling material.

(3) Grapes for which an assessment has been withheld, paid, or is already owed.

SEC. 83. Section 8769 of the Food and Agricultural Code is amended to read:

1 8769. (a) The board, annually after the organization of the
2 district, shall assess any ~~assessors~~ *assessor's* parcel of real property
3 with 10 or more olive, stone, or pome fruit trees on it and enter as
4 a separate item, on an annual assessment roll for each ~~such~~
5 *assessor's* parcel of real property included in the district, the
6 number of all olive, stone, or pome fruit trees that are growing on
7 it.

8 (b) For the purpose of this part, the board shall assess all olive,
9 stone, or pome fruit acreage at a uniform value per tree. The
10 assessment shall be upon a tree basis and the number of trees shall
11 be determined conclusively by the board counting the trees on each
12 ~~assessors~~ *assessor's* parcel. The board, in counting the olive, stone,
13 or pome fruit trees, shall not, however, count any more than 100
14 trees on any one acre of land.

15 (c) Upon completing the tree count within the district each
16 year, the board shall separately compute and certify, to the board
17 of supervisors, the total number of all the olive, stone, or pome
18 fruit trees in the district on each parcel.

19 SEC. 84. Section 8770 of the Food and Agricultural Code is
20 amended to read:

21 8770. Whenever new acreage within the district is planted
22 with olive, stone, or pome fruit trees ~~in such a fashion~~ *so* as to
23 qualify as olive, stone, or pome fruit acreage, the trees are subject
24 to assessment as provided in this part.

25 SEC. 85. Section 20437 of the Food and Agricultural Code is
26 amended to read:

27 20437. Any animal, hide, carcass, or portion of *a* carcass shall
28 not be held pursuant to Section 20435 for more than 30
29 consecutive days, unless the notice of seizure is renewed by the
30 inspector or peace officer.

31 SEC. 86. Section 21052 of the Food and Agricultural Code is
32 amended to read:

33 21052. It is unlawful for any person ~~that~~ *who* owns or has
34 custody of cattle to move, slaughter, release, sell, or receive at a
35 registered feedlot that cattle without the inspection ~~which~~ *that* is
36 required by Section 21051.

37 For the purposes of this section, a common carrier which
38 transports cattle does not have custody of the cattle.

39 SEC. 87. Section 75090.5 of the Food and Agricultural Code
40 is amended to read:

1 75090.5. (a) The commission may petition the secretary to
2 adopt and administer any activity authorized by the California
3 Marketing Act of 1937, Chapter 1 (commencing with Section
4 58601) of Part 2 of Division 21, relating to the commodity covered
5 by the commission. Adoption and administration of the activity by
6 the commission shall be in accordance with the act.

7 (b) As determined by the secretary, the governing body of the
8 commission may serve as the advisory board to the secretary with
9 respect to any activity recommended and approved pursuant to this
10 section.

11 SEC. 88. Section 1091.3 of the Government Code is amended
12 to read:

13 1091.3. Section 1090 shall not apply to any contract or grant
14 made by a county children and families commission; created
15 pursuant to the California Children and Families Act of 1998;
16 (Division 108 (commencing with Section 130100) *of the* Health
17 and Safety Code), except where both of the following conditions
18 are met:

19 (a) The contract or grant directly relates to services to be
20 provided by any member of a county children and families
21 commission or the entity the member represents or financially
22 benefits the member or the entity he or she represents.

23 (b) The member fails to recuse himself or herself from making,
24 participating in making, or in any way attempting to use his or her
25 official position to influence a decision on the grant or grants.

26 SEC. 89. Section 9509 of the Government Code is amended
27 to read:

28 9509. As soon as an enrolled bill is delivered to the Governor,
29 it shall be ~~indorsed~~ *endorsed* as follows: "This bill was received
30 by the Governor this ____ day of ____, ~~19~~ 20__." The
31 ~~indorsement~~ *endorsement* shall be signed by the private secretary
32 of the Governor or by any other person designated by the Governor
33 whose designation has been reported to the Speaker of the
34 Assembly and the President pro Tempore of the Senate.

35 SEC. 90. Section 11126 of the Government Code is amended
36 to read:

37 11126. (a) (1) Nothing in this article shall be construed to
38 prevent a state body from holding closed sessions during a regular
39 or special meeting to consider the appointment, employment,
40 evaluation of performance, or dismissal of a public employee or

1 to hear complaints or charges brought against that employee by
2 another person or employee unless the employee requests a public
3 hearing.

4 (2) As a condition to holding a closed session on the complaints
5 or charges to consider disciplinary action or to consider dismissal,
6 the employee shall be given written notice of his or her right to
7 have a public hearing, rather than a closed session, and that notice
8 shall be delivered to the employee personally or by mail at least 24
9 hours before the time for holding a regular or special meeting. If
10 notice is not given, any disciplinary or other action taken against
11 any employee at the closed session shall be null and void.

12 (3) The state body also may exclude from any public or closed
13 session, during the examination of a witness, any or all other
14 witnesses in the matter being investigated by the state body.

15 (4) Following the public hearing or closed session, the body
16 may deliberate on the decision to be reached in a closed session.

17 (b) For the purposes of this section, “employee” does not
18 include any person who is elected to, or appointed to a public office
19 by, any state body. However, officers of the California State
20 University who receive compensation for their services, other than
21 per diem and ordinary and necessary expenses, shall, when
22 engaged in that capacity, be considered employees. Furthermore,
23 for purposes of this section, the term employee includes a person
24 exempt from civil service pursuant to subdivision (e) of Section 4
25 of Article VII of the California Constitution.

26 (c) Nothing in this article shall be construed to do any of the
27 following:

28 (1) Prevent state bodies that administer the licensing of persons
29 engaging in businesses or professions from holding closed
30 sessions to prepare, approve, grade, or administer examinations.

31 (2) Prevent an advisory body of a state body that administers
32 the licensing of persons engaged in businesses or professions from
33 conducting a closed session to discuss matters that the advisory
34 body has found would constitute an unwarranted invasion of the
35 privacy of an individual licensee or applicant if discussed in an
36 open meeting, provided the advisory body does not include a
37 quorum of the members of the state body it advises. Those matters
38 may include review of an applicant’s qualifications for licensure
39 and an inquiry specifically related to the state body’s enforcement
40 program concerning an individual licensee or applicant where the

1 inquiry occurs prior to the filing of a civil, criminal, or
2 administrative disciplinary action against the licensee or applicant
3 by the state body.

4 (3) Prohibit a state body from holding a closed session to
5 deliberate on a decision to be reached in a proceeding required to
6 be conducted pursuant to Chapter 5 (commencing with Section
7 11500) or similar provisions of law.

8 (4) Grant a right to enter any correctional institution or the
9 grounds of a correctional institution where that right is not
10 otherwise granted by law, nor shall anything in this article be
11 construed to prevent a state body from holding a closed session
12 when considering and acting upon the determination of a term,
13 parole, or release of any individual or other disposition of an
14 individual case, or if public disclosure of the subjects under
15 discussion or consideration is expressly prohibited by statute.

16 (5) Prevent any closed session to consider the conferring of
17 honorary degrees, or gifts, donations, and bequests that the donor
18 or proposed donor has requested in writing to be kept confidential.

19 (6) Prevent the Alcoholic Beverage Control Appeals Board
20 from holding a closed session for the purpose of holding a
21 deliberative conference as provided in Section 11125.

22 (7) (A) Prevent a state body from holding closed sessions with
23 its negotiator prior to the purchase, sale, exchange, or lease of real
24 property by or for the state body to give instructions to its
25 negotiator regarding the price and terms of payment for the
26 purchase, sale, exchange, or lease.

27 (B) However, prior to the closed session, the state body shall
28 hold an open and public session in which it identifies the real
29 property or real properties that the negotiations may concern and
30 the person or persons with whom its negotiator may negotiate.

31 (C) For purposes of this paragraph, the negotiator may be a
32 member of the state body.

33 (D) For purposes of this paragraph, “lease” includes renewal
34 or renegotiation of a lease.

35 (E) Nothing in this paragraph shall preclude a state body from
36 holding a closed session for discussions regarding eminent domain
37 proceedings pursuant to subdivision (e).

38 (8) Prevent the California Postsecondary Education
39 Commission from holding closed sessions to consider matters

1 pertaining to the appointment or termination of the Director of the
2 California Postsecondary Education Commission.

3 (9) Prevent the Council for Private Postsecondary and
4 Vocational Education from holding closed sessions to consider
5 matters pertaining to the appointment or termination of the
6 Executive Director of the Council for Private Postsecondary and
7 Vocational Education.

8 (10) Prevent the Franchise Tax Board from holding closed
9 sessions for the purpose of discussion of confidential tax returns
10 or information the public disclosure of which is prohibited by law,
11 or from considering matters pertaining to the appointment or
12 removal of the Executive Officer of the Franchise Tax Board.

13 (11) Require the Franchise Tax Board to notice or disclose any
14 confidential tax information considered in closed sessions, or
15 documents executed in connection therewith, the public disclosure
16 of which is prohibited pursuant to Article 2 (commencing with
17 Section 19542) of Chapter 7 of Part 10.2 of the Revenue and
18 Taxation Code.

19 (12) Prevent the Board of Corrections from holding closed
20 sessions when considering reports of crime conditions under
21 Section 6027 of the Penal Code.

22 (13) Prevent the State Air Resources Board from holding
23 closed sessions when considering the proprietary specifications
24 and performance data of manufacturers.

25 (14) Prevent the State Board of Education or the
26 Superintendent of Public Instruction, or any committee advising
27 the board or the superintendent, from holding closed sessions on
28 those portions of its review of assessment instruments pursuant to
29 Chapter 5 (commencing with Section 60600) of, or pursuant to
30 Chapter 8 (commencing with Section 60850) of, Part 33 of the
31 Education Code during which actual test content is reviewed and
32 discussed. The purpose of this provision is to maintain the
33 confidentiality of the assessments under review.

34 (15) Prevent the California Integrated Waste Management
35 Board or its auxiliary committees from holding closed sessions for
36 the purpose of discussing confidential tax returns, discussing trade
37 secrets or confidential or proprietary information in its possession,
38 or discussing other data, the public disclosure of which is
39 prohibited by law.



1 (16) Prevent a state body that invests retirement, pension, or
2 endowment funds from holding closed sessions when considering
3 investment decisions. For purposes of consideration of
4 shareholder voting on corporate stocks held by the state body,
5 closed sessions for the purposes of voting may be held only with
6 respect to election of corporate directors, election of independent
7 auditors, and other financial issues that could have a material effect
8 on the net income of the corporation. For the purpose of real
9 property investment decisions that may be considered in a closed
10 session pursuant to this paragraph, a state body shall also be
11 exempt from the provisions of paragraph (7) relating to the
12 identification of real properties prior to the closed session.

13 (17) Prevent a state body, or boards, commissions,
14 administrative officers, or other representatives that may properly
15 be designated by law or by a state body, from holding closed
16 sessions with its representatives in discharging its responsibilities
17 under Chapter 10 (commencing with Section 3500), Chapter 10.3
18 (commencing with Section 3512), Chapter 10.5 (commencing
19 with Section 3525), or Chapter 10.7 (commencing ~~of~~ *with* Section
20 3540) of Division 4 of Title 1 as the sessions relate to salaries,
21 salary schedules, or compensation paid in the form of fringe
22 benefits. For the purposes enumerated in the preceding sentence,
23 a state body may also meet with a state conciliator who has
24 intervened in the proceedings.

25 (d) (1) Notwithstanding any other provision of law, any
26 meeting of the Public Utilities Commission at which the rates of
27 entities under the commission's jurisdiction are changed shall be
28 open and public.

29 (2) Nothing in this article shall be construed to prevent the
30 Public Utilities Commission from holding closed sessions to
31 deliberate on the institution of proceedings, or disciplinary actions
32 against any person or entity under the jurisdiction of the
33 commission.

34 (e) (1) Nothing in this article shall be construed to prevent a
35 state body, based on the advice of its legal counsel, from holding
36 a closed session to confer with, or receive advice from, its legal
37 counsel regarding pending litigation when discussion in open
38 session concerning those matters would prejudice the position of
39 the state body in the litigation.



(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

1 (A) When considering matters pertaining to the appointment or
2 removal of the Executive Secretary of the State Board of
3 Equalization.

4 (B) For the purpose of hearing confidential taxpayer appeals or
5 data, the public disclosure of which is prohibited by law.

6 (8) Require the State Board of Equalization to disclose any
7 action taken in closed session or documents executed in
8 connection with that action, the public disclosure of which is
9 prohibited by law pursuant to Sections 15619 and 15641 of this
10 code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455,
11 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of
12 the Revenue and Taxation Code.

13 (9) Prevent the California Earthquake Prediction Evaluation
14 Council, or other body appointed to advise the Director of the
15 Office of Emergency Services or the Governor concerning matters
16 relating to volcanic or earthquake predictions, from holding closed
17 sessions when considering the evaluation of possible predictions.

18 (g) This article does not prevent either of the following:

19 (1) The Teachers' Retirement Board or the Board of
20 Administration of the Public Employees' Retirement System from
21 holding closed sessions when considering matters pertaining to the
22 recruitment, appointment, employment, or removal of the chief
23 executive officer or when considering matters pertaining to the
24 recruitment or removal of the Chief Investment Officer of the State
25 Teachers' Retirement System or the Public Employees'
26 Retirement System.

27 (2) The Commission on Teacher Credentialing from holding
28 closed sessions when considering matters relating to the
29 recruitment, appointment, or removal of its executive director.

30 SEC. 91. Section 11550 of the Government Code is amended
31 to read:

32 11550. Effective January 1, 1988, an annual salary of
33 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to
34 each of the following:

35 (a) Director of Finance.

36 (b) Secretary of Business, Transportation and Housing
37 Agency.

38 (c) Secretary of Resources Agency.

39 (d) Secretary of Health and Welfare Agency.

40 (e) Secretary of State and Consumer Services Agency.

- 1 (f) Director of Industrial Relations.
- 2 (g) Commissioner of the California Highway Patrol.
- 3 (h) Secretary of Youth and Adult Correctional Agency.
- 4 (i) Secretary of Food and Agriculture.
- 5 (j) Secretary of *Technology*, Trade, and Commerce ~~Agency~~.
- 6 (k) Secretary of Veterans Affairs.

7 The annual compensation provided by this section shall be
8 increased in any fiscal year in which a general salary increase is
9 provided for state employees. The amount of the increase provided
10 by this section shall be comparable to, but shall not exceed, the
11 percentage of the general salary increases provided for state
12 employees during that fiscal year.

13 SEC. 92. Section 12800 of the Government Code is amended
14 to read:

15 12800. There are in the state government the following
16 agencies: State and Consumer Services; Business, Transportation
17 and Housing; California Environmental Protection; California
18 Health and Human Services; Resources; *Technology*, Trade, and
19 Commerce; and Youth and Adult Correctional.

20 Whenever the term “Agriculture and Services Agency”
21 appears in any law, it means the “State and Consumer Services
22 Agency,” and whenever the term “Secretary of Agriculture and
23 Services Agency” appears in any law, it means the “Secretary of
24 State and Consumer Services Agency.”

25 Whenever the term “Business and Transportation Agency”
26 appears in any law, it means the “Business, Transportation and
27 Housing Agency,” and whenever the term “Secretary of the
28 Business and Transportation Agency” appears in any law, it means
29 the “Secretary of the Business, Transportation and Housing
30 Agency.”

31 Whenever the term “Health and Welfare Agency” appears in
32 any law, it means the “California Health and Human Services
33 Agency,” and whenever the term “Secretary of the Health and
34 Welfare Agency” appears in any law, it means the “Secretary of
35 the California Health and Human Services Agency.”

36 SEC. 93. Section 12940 of the Government Code is amended
37 to read:

38 12940. It shall be an unlawful employment practice, unless
39 based upon a bona fide occupational qualification, or, except

1 where based upon applicable security regulations established by
2 the United States or the State of California:

3 (a) For an employer, because of the race, religious creed, color,
4 national origin, ancestry, physical disability, mental disability,
5 medical condition, marital status, sex, or sexual orientation of any
6 person, to refuse to hire or employ the person or to refuse to select
7 the person for a training program leading to employment, or to bar
8 or to discharge the person from employment or from a training
9 program leading to employment, or to discriminate against the
10 person in compensation or in terms, conditions, or privileges of
11 employment.

12 (1) This part does not prohibit an employer from refusing to
13 hire or discharging an employee with a physical or mental
14 disability, or subject an employer to any legal liability resulting
15 from the refusal to employ or the discharge of an employee with
16 a physical or mental disability, where the employee, because of his
17 or her physical or mental disability, is unable to perform his or her
18 essential duties even with reasonable accommodations, or cannot
19 perform those duties in a manner that would not endanger his or
20 her health or safety or the health or safety of others even with
21 reasonable accommodations.

22 (2) This part does not prohibit an employer from refusing to
23 hire or discharging an employee who, because of the employee's
24 medical condition, is unable to perform his or her essential duties
25 even with reasonable accommodations, or cannot perform those
26 duties in a manner that would not endanger the employee's health
27 or safety or the health or safety of others even with reasonable
28 accommodations. Nothing in this part shall subject an employer to
29 any legal liability resulting from the refusal to employ or the
30 discharge of an employee who, because of the employee's medical
31 condition, is unable to perform his or her essential duties, or cannot
32 perform those duties in a manner that would not endanger the
33 employee's health or safety or the health or safety of others even
34 with reasonable accommodations.

35 (3) Nothing in this part relating to discrimination on account of
36 marital status shall do either of the following:

37 (A) Affect the right of an employer to reasonably regulate, for
38 reasons of supervision, safety, security, or morale, the working of
39 spouses in the same department, division, or facility, consistent
40 with the rules and regulations adopted by the commission.

1 (B) Prohibit bona fide health plans from providing additional
2 or greater benefits to employees with dependents than to those
3 employees without or with fewer dependents.

4 (4) Nothing in this part relating to discrimination on account of
5 sex shall affect the right of an employer to use veteran status as a
6 factor in employee selection or to give special consideration to
7 Vietnam era veterans.

8 (b) For a labor organization, because of the race, religious
9 creed, color, national origin, ancestry, physical disability, mental
10 disability, medical condition, marital status, sex, or sexual
11 orientation of any person, to exclude, expel, or restrict from its
12 membership the person, or to provide only second-class or
13 segregated membership or to discriminate against any person
14 because of the race, religious creed, color, national origin,
15 ancestry, physical disability, mental disability, medical condition,
16 marital status, sex, or sexual orientation of the person in the
17 election of officers of the labor organization or in the selection of
18 the labor organization's staff or to discriminate in any way against
19 any of its members or against any employer or against any person
20 employed by an employer.

21 (c) For any person to discriminate against any person in the
22 selection or training of that person in any apprenticeship training
23 program or any other training program leading to employment
24 because of the race, religious creed, color, national origin,
25 ancestry, physical disability, mental disability, medical condition,
26 marital status, sex, or sexual orientation of the person
27 discriminated against.

28 (d) For any employer or employment agency to print or
29 circulate or cause to be printed or circulated any publication, or to
30 make any non-job-related inquiry of an employee or applicant,
31 either verbal or through use of an application form, that expresses,
32 directly or indirectly, any limitation, specification, or
33 discrimination as to race, religious creed, color, national origin,
34 ancestry, physical disability, mental disability, medical condition,
35 marital status, sex, or sexual orientation, or any intent to make any
36 ~~such~~ limitation, specification, or discrimination.

37 (e) (1) Except as provided in paragraph (2) or (3), for any
38 employer or employment agency to require any medical or
39 psychological examination of an applicant, to make any medical
40 or psychological inquiry of an applicant, to make any inquiry

1 whether an applicant has a mental disability or physical disability
2 or medical condition, or to make any inquiry regarding the nature
3 or severity of a physical disability, mental disability, or medical
4 condition.

5 (2) Notwithstanding paragraph (1), an employer or
6 employment agency may inquire into the ability of an applicant to
7 perform job-related functions and may respond to an applicant's
8 request for reasonable accommodation.

9 (3) Notwithstanding paragraph (1), an employer or
10 employment agency may require a medical or psychological
11 examination or make a medical or psychological inquiry of a job
12 applicant after an employment offer has been made but prior to the
13 commencement of employment duties, provided that the
14 examination or inquiry is job-related and consistent with business
15 necessity and that all entering employees in the same job
16 classification are subject to the same examination or inquiry.

17 (f) (1) Except as provided in paragraph (2), for any employer
18 or employment agency to require any medical or psychological
19 examination of an employee, to make any medical or
20 psychological inquiry of an employee, to make any inquiry
21 whether an employee has a mental disability, physical disability,
22 or medical condition, or to make any inquiry regarding the nature
23 or severity of a physical disability, mental disability, or medical
24 condition.

25 (2) Notwithstanding paragraph (1), an employer or
26 employment agency may require any examinations or inquiries
27 that it can show to be job-related and consistent with business
28 necessity. An employer or employment agency may conduct
29 voluntary medical examinations, including voluntary medical
30 histories, which are part of an employee health program available
31 to employees at that worksite.

32 (g) For any employer, labor organization, or employment
33 agency to harass, discharge, expel, or otherwise discriminate
34 against any person because the person has made a report pursuant
35 to Section 11161.8 of the Penal Code that prohibits retaliation
36 against hospital employees who report suspected patient abuse by
37 health facilities or community care facilities.

38 (h) For any employer, labor organization, employment agency,
39 or person to discharge, expel, or otherwise discriminate against
40 any person because the person has opposed any practices

1 forbidden under this part or because the person has filed a
2 complaint, testified, or assisted in any proceeding under this part.

3 (i) For any person to aid, abet, incite, compel, or coerce the
4 doing of any of the acts forbidden under this part, or to attempt to
5 do so.

6 (j) (1) For an employer, labor organization, employment
7 agency, apprenticeship training program or any training program
8 leading to employment, or any other person, because of race,
9 religious creed, color, national origin, ancestry, physical disability,
10 mental disability, medical condition, marital status, sex, age, or
11 sexual orientation, to harass an employee, an applicant, or a person
12 providing services pursuant to a contract. Harassment of an
13 employee, an applicant, or a person providing services pursuant to
14 a contract by an employee other than an agent or supervisor shall
15 be unlawful if the entity, or its agents or supervisors, knows or
16 should have known of this conduct and fails to take immediate and
17 appropriate corrective action. An entity shall take all reasonable
18 steps to prevent harassment from occurring. Loss of tangible job
19 benefits shall not be necessary in order to establish harassment.

20 (2) The provisions of this subdivision are declaratory of
21 existing law, except for the new duties imposed on employers with
22 regard to harassment.

23 (3) An employee of an entity subject to this subdivision is
24 personally liable for any harassment prohibited by this section that
25 is perpetrated by the employee, regardless of whether the
26 employer or covered entity knows or should have known of the
27 conduct and fails to take immediate and appropriate corrective
28 action.

29 (4) (A) For purposes of this subdivision only, “employer”
30 means any person regularly employing one or more persons or
31 regularly receiving the services of one or more persons providing
32 services pursuant to a contract, or any person acting as an agent of
33 an employer, directly or indirectly, the state, or any political or
34 civil subdivision of the state, and cities. The definition of
35 “employer” in subdivision (d) of Section 12926 applies to all
36 provisions of this section other than this subdivision.

37 (B) Notwithstanding subparagraph (A), for purposes of this
38 subdivision, “employer” does not include a religious association
39 or corporation not organized for private profit, except as provided
40 in Section 12926.2.

1 (C) For purposes of this subdivision, “harassment” because of
2 sex includes sexual harassment, gender harassment, and
3 harassment based on pregnancy, childbirth, or related medical
4 conditions.

5 (5) For purposes of this subdivision, “a person providing
6 services pursuant to a contract” means a person who meets all of
7 the following criteria:

8 (A) The person has the right to control the performance of the
9 contract for services and discretion as to the manner of
10 performance.

11 (B) The person is customarily engaged in an independently
12 established business.

13 (C) The person has control over the time and place the work is
14 performed, supplies the tools and instruments used in the work,
15 and performs work that requires a particular skill not ordinarily
16 used in the course of the employer’s work.

17 (k) For an employer, labor organization, employment agency,
18 apprenticeship training program, or any training program leading
19 to employment, to fail to take all reasonable steps necessary to
20 prevent discrimination and harassment from occurring.

21 (l) For an employer or other entity covered by this part to refuse
22 to hire or employ a person or to refuse to select a person for a
23 training program leading to employment or to bar or to discharge
24 a person from employment or from a training program leading to
25 employment, or to discriminate against a person in compensation
26 or in terms, conditions, or privileges of employment because of a
27 conflict between the person’s religious belief or observance and
28 any employment requirement, unless the employer or other entity
29 covered by this part demonstrates that it has explored any available
30 reasonable alternative means of accommodating the religious
31 belief or observance, including the possibilities of excusing the
32 person from those duties that conflict with his or her religious
33 belief or observance or permitting those duties to be performed at
34 another time or by another person, but is unable to reasonably
35 accommodate the religious belief or observance without undue
36 hardship on the conduct of the business of the employer or other
37 entity covered by this part. Religious belief or observance, as used
38 in this section, includes, but is not limited to, observance of a
39 Sabbath or other religious holy day or days, and reasonable time

1 necessary for travel prior and subsequent to a religious
2 observance.

3 (m) For an employer or other entity covered by this part to fail
4 to make reasonable accommodation for the known physical or
5 mental disability of an applicant or employee. Nothing in this
6 subdivision or in paragraph (1) or (2) of subdivision (a) shall be
7 construed to require an accommodation that is demonstrated by the
8 employer or other covered entity to produce undue hardship to its
9 operation.

10 (n) For an employer or other entity covered by this part to fail
11 to engage in a timely, good faith, interactive process with the
12 employee or applicant to determine effective reasonable
13 accommodations, if any, in response to a request for reasonable
14 accommodation by an employee or applicant with a known
15 physical or mental disability or known medical condition.

16 (o) For an employer or other entity covered by this part, to
17 subject, directly or indirectly, any employee, applicant, or other
18 person to a test for the presence of a genetic characteristic.

19 SEC. 94. Section 12965 of the Government Code is amended
20 to read:

21 12965. (a) (1) In the case of failure to eliminate an unlawful
22 practice under this part through conference, conciliation, or
23 persuasion, or in advance thereof if circumstances warrant, the
24 director in his or her discretion may cause to be issued in the name
25 of the department a written accusation. The accusation shall
26 contain the name of the person, employer, labor organization, or
27 employment agency accused, which shall be known as the
28 respondent, shall set forth the nature of the charges, shall be served
29 upon the respondent together with a copy of the verified
30 complaint, as amended, and shall require the respondent to answer
31 the charges at a hearing.

32 (2) For any complaint treated by the director as a group or class
33 complaint for purposes of investigation, conciliation, and
34 accusation pursuant to Section 12961, an accusation shall be
35 issued, if at all, within two years after the filing of the complaint.
36 For any complaint alleging a violation of Section 51.7 of the Civil
37 Code, an accusation shall be issued, if at all, within two years after
38 the filing of the complaint. For all other complaints, an accusation
39 shall be issued, if at all, within one year after the filing of a
40 complaint. If the director determines, pursuant to Section 12961,



1 that a complaint investigated as a group or class complaint under
2 Section 12961 is to be treated as a group or class complaint for
3 purposes of conciliation and accusation as well, that determination
4 shall be made and shall be communicated in writing within one
5 year after the filing of the complaint to each person, employer,
6 labor organization, employment agency, or public entity alleged in
7 the complaint to have committed an unlawful practice.

8 (b) (1) If an accusation is not issued within 150 days after the
9 filing of a complaint, or if the department earlier determines that
10 no accusation will issue, the department shall promptly notify, in
11 writing, the person claiming to be aggrieved that the department
12 shall issue, on his or her request, the right-to-sue notice. This
13 notice shall indicate that the person claiming to be aggrieved may
14 bring a civil action under this part against the person, employer,
15 labor organization, or employment agency named in the verified
16 complaint within one year from the date of that notice. If the
17 person claiming to be aggrieved does not request a right-to-sue
18 notice, the department shall issue the notice upon completion of its
19 investigation, and not later than one year after the filing of the
20 complaint. ~~A~~

21 (2) A city, county, or district attorney in a location having an
22 enforcement unit established on or before March 1, 1991, pursuant
23 to a local ordinance enacted for the purpose of prosecuting
24 HIV/AIDS discrimination claims, acting on behalf of any person
25 claiming to be aggrieved due to HIV/AIDS discrimination, may
26 also bring a civil action under this part against the person,
27 employer, labor organization, or employment agency named in the
28 notice. The superior ~~and municipal~~ courts of the State of California
29 shall have jurisdiction of those actions, and the aggrieved person
30 may file in any of these courts. ~~Such an action~~ *Those actions* may
31 be brought in any county in the state in which the unlawful practice
32 is alleged to have been committed, in the county in which the
33 records relevant to the practice are maintained and administered,
34 or in the county in which the aggrieved person would have worked
35 or would have had access to the public accommodation but for the
36 alleged unlawful practice, but if the defendant is not found within
37 any of these counties, an action may be brought within the county
38 of the defendant's residence or principal office. ~~A~~

39 (3) A copy of any complaint filed pursuant to this part shall be
40 served on the principal offices of the department and of the

1 commission. The remedy for failure to send a copy of a complaint
2 is an order to do so. ~~Those actions~~

3 (4) *Actions* may not be filed as class actions or may not be
4 maintained as class actions by the person or persons claiming to be
5 aggrieved where those persons have filed a civil class action in the
6 federal courts alleging a comparable claim of employment
7 discrimination against the same defendant or defendants. ~~In~~

8 (5) *In* actions brought under this section, the court, in its
9 discretion, may award to the prevailing party reasonable attorney's
10 fees and costs, including expert witness fees, except where the
11 action is filed by a public agency or a public official, acting in an
12 official capacity.

13 (c) (1) If an accusation includes a prayer either for damages for
14 emotional injuries as a component of actual damages, or for
15 administrative fines, or for both, or if an accusation is amended for
16 the purpose of adding a prayer either for damages for emotional
17 injuries as a component of actual damages, or for administrative
18 fines, or both, the respondent may, within 30 days after service of
19 the accusation or amended accusation, elect to transfer the
20 proceedings to a court in lieu of a hearing pursuant to subdivision
21 (a) by serving a written notice to that effect on the department, the
22 commission, and the person claiming to be aggrieved. The
23 commission shall prescribe the form and manner of giving written
24 notice.

25 (2) No later than 30 days after the completion of service of the
26 notice of election pursuant to paragraph (1), the department shall
27 dismiss the accusation and shall, either itself or, at its election,
28 through the Attorney General, file in the appropriate court an
29 action in its own name on behalf of the person claiming to be
30 aggrieved as the real party in interest. In this action, the person
31 claiming to be aggrieved shall be the real party in interest and shall
32 have the right to participate as a party and be represented by his or
33 her own counsel. Complaints filed pursuant to this section shall be
34 filed in the appropriate superior or ~~municipal~~ court in any county
35 in which unlawful practices are alleged to have been committed,
36 in the county in which records relevant to the alleged unlawful
37 practices are maintained and administered, or in the county in
38 which the person claiming to be aggrieved would have worked or
39 would have had access to public accommodation, but for the
40 alleged unlawful practices. If the defendant is not found in any of

1 these counties, the action may be brought within the county of the
2 defendant's residence or principal office. Those actions shall be
3 assigned to the court's delay reduction program, or otherwise
4 given priority for disposition by the court in which the action is
5 filed.

6 (3) A court may grant as relief in any action filed pursuant to
7 this subdivision any relief a court is empowered to grant in a civil
8 action brought pursuant to subdivision (b), in addition to any other
9 relief that, in the judgment of the court, will effectuate the purpose
10 of this part. This relief may include a requirement that the
11 employer conduct training for all employees, supervisors, and
12 management on the requirements of this part, the rights and
13 remedies of those who allege a violation of this part, and the
14 employer's internal grievance procedures.

15 (4) The department may amend an accusation to pray for either
16 damages for emotional injury or for administrative fines, or both,
17 provided that the amendment is made within 30 days of the
18 issuance of the original accusation.

19 SEC. 95. Section 13964 of the Government Code, as amended
20 by Section 7 of Chapter 712 of the Statutes of 2001, is amended
21 to read:

22 13964. (a) After having heard the evidence relevant to the
23 application for assistance, the board shall approve the application
24 if a preponderance of the evidence shows that as a direct result of
25 the crime the victim or derivative victim incurred an injury that
26 resulted in a pecuniary loss.

27 (b) An application for assistance may be denied, in whole or in
28 part, if the board finds that denial is appropriate because of the
29 nature of the victim's or other applicant's involvement in the
30 events leading to the crime or the involvement of the persons
31 whose injury or death give rise to the application. In the case of a
32 minor, the board shall consider the minor's age, physical
33 condition, and psychological state as well as any compelling health
34 and safety concerns in determining whether the minor's
35 application should be denied pursuant to this section.

36 (c) No victim shall be eligible for assistance under this article
37 under either of the following circumstances:

38 (1) The board finds that the victim knowingly and willingly
39 participated in the commission of the crime. This paragraph shall
40 not apply if the injury occurred as a direct result of a crime

1 committed in violation of subdivision (d) of Section 261.5 of the
2 Penal Code.

3 (2) The board finds that the victim failed to cooperate
4 reasonably with a law enforcement agency in the apprehension and
5 conviction of a criminal committing the crime. In the case of a
6 minor, the board shall consider the minor's age, physical
7 condition, and psychological state as well as any compelling health
8 and safety concerns in determining whether the minor is eligible
9 for assistance pursuant to this section.

10 (d) No derivative victim shall be eligible for assistance under
11 this article under either of the following circumstances:

12 (1) The board finds that the victim or derivative victim
13 knowingly and willingly participated in the commission of the
14 crime.

15 (2) The board finds that the victim or derivative victim failed
16 to cooperate reasonably with a law enforcement agency in the
17 apprehension and conviction of a criminal committing the crime.

18 (e) Notwithstanding paragraph (2) of subdivision (c) and
19 paragraph (2) of subdivision (d), for claims based on domestic
20 violence the ~~Board of Control~~ board shall adopt guidelines that
21 allow the board to consider and approve applications for assistance
22 based on domestic violence, taking into account the victim's age,
23 physical condition, psychological state, and any compelling health
24 or safety reasons, including, but not limited to, a reasonable fear
25 of retaliation or harm that would jeopardize the well-being of the
26 victim or the victim's family, in evaluating a victim's cooperation
27 with law enforcement, and giving due consideration to the degree
28 of cooperation of which the victim is capable in light of the
29 presence of any of these factors.

30 For the purposes of this section, the application of a derivative
31 victim of domestic violence under the age of 18 years shall not be
32 deemed ineligible on the basis of ineligibility of the victim under
33 subdivision (b).

34 (f) No application shall be denied solely because no criminal
35 complaint has been filed, unless the complaint has not been filed
36 for one of the reasons stated in subdivision (c) or (d). Moreover,
37 no application shall be denied because a criminal complaint is
38 filed, but later dismissed, if the dismissal is not for the reasons
39 stated in subdivision (c) or (d).

1 (g) Once an application has been accepted by the board
2 pursuant to subdivision (b) of Section 13962, as the application
3 pertains to medical or medical-related expenses, the claim shall
4 continue to be processed and either awarded or denied pursuant to
5 this article in the event of the death of the applicant.

6 (h) If a nonoffending parent in a child sexual abuse case
7 cooperates with the prosecution or Child Protective Services by
8 providing assistance to law enforcement in the disposition of the
9 case, that parent shall not be considered uncooperative within the
10 meaning of this section and shall be eligible, if otherwise qualified,
11 for restitution as a derivative victim pursuant to subparagraph (C)
12 of paragraph (1) of subdivision (a) of Section 13965.

13 (i) This section shall remain in effect only until January 1,
14 2004, and as of that date is repealed, unless a later enacted statute,
15 that is enacted before January 1, 2004, deletes or extends that date.

16 SEC. 96. Section 13965 of the Government Code, as amended
17 by Section 10.5 of Chapter 712 of the Statutes of 2001, is amended
18 to read:

19 13965. (a) If the application for assistance is approved, the
20 board shall determine what type of state assistance will best aid the
21 victim or derivative victim. The board may take any or all of the
22 following actions:

23 (1) Reimburse the following persons for the expense of their
24 outpatient mental health counseling when that mental health
25 counseling is necessary as a direct result of the crime:

26 (A) A victim in an amount not to exceed ten thousand dollars
27 (\$10,000).

28 (B) A derivative victim who is the surviving parent, sibling,
29 child, spouse, or fiancé of a victim of a crime which directly
30 resulted in the death of the victim in an amount not to exceed ten
31 thousand dollars (\$10,000).

32 (C) A derivative victim, as defined in subparagraph (A), (B),
33 (C), or (D) of paragraph (2) of subdivision (a) of Section 13960,
34 who is the primary caretaker of a minor victim of sexual or
35 physical abuse whose claim is not denied or reduced pursuant to
36 subdivision (b) or (d) of Section 13964 in a total amount not to
37 exceed ten thousand dollars (\$10,000) for not more than two
38 derivative victims described in this subparagraph.

39 (D) A derivative victim not eligible for reimbursement
40 pursuant to subparagraph (B) or (C) in an amount not to exceed

1 three thousand dollars (\$3,000), provided that mental health
2 counseling of a derivative victim under subparagraph (E) of
3 paragraph (2) of subdivision (a) of Section 13960 shall be
4 reimbursed only if that counseling is necessary for the treatment
5 of the victim.

6 (E) A victim of a crime committed in violation of subdivision
7 (d) of Section 261.5 of the Penal Code in an amount not to exceed
8 three thousand dollars (\$3,000) for mental health counseling
9 expenses only. A derivative victim of a crime committed in
10 violation of subdivision (d) of Section 261.5 of the Penal Code
11 shall not be eligible for reimbursement of mental health
12 counseling expenses.

13 The board may authorize a direct cash payment to a provider of
14 psychological or psychiatric treatment or mental health counseling
15 services, including peer counseling services provided by a rape
16 crisis center as defined by Section 13837 of the Penal Code or to
17 either the victim or the derivative victim, equal to the pecuniary
18 loss attributable to medical or medical-related expenses, including
19 counseling, directly resulting from the injury. Reimbursement on
20 the initial claim for any psychological, psychiatric, or mental
21 health counseling services, including peer counseling services
22 provided by a rape crisis center, shall, if the application has been
23 approved, be paid by the board within 90 days of the date of receipt
24 of the claim for payment, with subsequent payments to be made
25 to the provider within one month of the receipt of a claim for
26 payment. However, the board may not authorize without good
27 cause a direct cash payment to a licensed health care provider or
28 rape crisis center over the objection of the applicant.

29 When a public agency, including a court or district attorney or
30 a police, county child protective services, or other state or local
31 governmental agency, refers a victim of crime to a private
32 nonprofit agency for treatment for that victim, the private
33 nonprofit agency shall be reimbursed for those services at the level
34 of the normal and customary fee charged by the private nonprofit
35 agency to clients with adequate means of payment for its services,
36 except that this reimbursement shall not exceed the maximum
37 reimbursement rates set by the board and may be made only to the
38 extent that the victim otherwise qualifies for services under the
39 victims of crime program and that other reimbursement or direct
40 subsidies are not available to serve the victim.

1 Payments authorized pursuant to this paragraph for peer
2 counseling services provided by a rape crisis center shall not
3 exceed fifteen dollars (\$15) for each hour of services provided.
4 Those services shall be limited to individual, in-person counseling
5 on a face-to-face basis for a period not to exceed 10 weeks plus one
6 series of facilitated support group counseling sessions.

7 (2) Authorize a cash payment to the victim or derivative victim
8 equal to the pecuniary loss resulting from loss of wages pursuant
9 to Section 13965.1.

10 (3) Authorize a cash payment to a derivative victim for loss of
11 support pursuant to Section 13965.1.

12 (4) (A) Authorize a cash payment or reimbursement not to
13 exceed two thousand dollars (\$2,000) to a victim of sexual assault
14 or domestic violence for expenses incurred in relocating, if the
15 expenses are determined by law enforcement to be necessary for
16 the personal safety of the victim or by a mental health treatment
17 provider to be necessary for the emotional well-being of the
18 victim. These expenses may include, but need not be limited to, all
19 of the following:

20 (i) Deposits for utilities and telephone service.

21 (ii) Deposits for rental housing, not to exceed the first and last
22 ~~month's~~ *months'* rent and a security deposit or two thousand
23 dollars (\$2,000), whichever is less.

24 (iii) Temporary lodging and food expenses, not to exceed one
25 thousand dollars (\$1,000).

26 (iv) Clothing and other personal items, not to exceed five
27 hundred dollars (\$500).

28 (B) The board shall develop procedures to ensure that the
29 victim is using the cash payment only for the purposes of this
30 paragraph. The procedures may include, but need not be limited
31 to, requiring copies of receipts, lease agreements, or other
32 documents as requested, or developing a method for direct
33 payment to the landlord or vendor.

34 (C) When a relocation payment or reimbursement is provided
35 to a victim of sexual assault or domestic violence, the victim shall
36 agree to not inform the offender, if the identity of the offender is
37 known to the victim, of the location of the victim's new residence
38 and to not allow the offender, if the identity of the offender is
39 known to the victim, on the premises at any time, or shall agree to

1 seek a restraining order against the offender, if the identity of the
2 offender is known to the victim.

3 (D) The board may authorize a cash payment or reimbursement
4 pursuant to this paragraph to victims of crimes other than domestic
5 violence if the expenses are determined by law enforcement to be
6 necessary for the personal safety of the victim or by a mental health
7 treatment provider to be necessary for the emotional well-being of
8 the victim.

9 (E) The cash payment or reimbursement made under this
10 paragraph shall only be awarded once to any victim, except that the
11 board may, under compelling circumstances, award a second cash
12 payment or reimbursement to the same victim if both of the
13 following conditions are met:

14 (i) The crime or series of crimes occurs more than three years
15 from the date of the crime giving rise to the initial relocation cash
16 payment or reimbursement.

17 (ii) The crime does not involve the same perpetrator.

18 (5) Authorize cash payments to or on behalf of the victim for
19 job retraining or similar employment-oriented rehabilitative
20 services.

21 (6) (A) In the case of a victim of a crime that occurred in the
22 victim's residence, authorize reimbursement for the expense for
23 installing or increasing residential security, not to exceed one
24 thousand dollars (\$1,000). Installing or increasing residential
25 security may include, but need not be limited to, both of the
26 following:

27 (i) Home security device or system.

28 (ii) Replacing or increasing the number of locks.

29 (B) Reimbursement under this paragraph shall be made upon
30 verification by law enforcement to be necessary for the personal
31 safety of the victim or by a mental health treatment provider to be
32 necessary for the emotional well-being of the victim.

33 (C) The board shall develop procedures to ensure that the
34 victim is using the reimbursement only for the purposes of this
35 paragraph. The procedures may include, but need not be limited
36 to, requiring copies of receipts, invoices, estimates, or other
37 documents, or developing a method for direct payment to the
38 vendor.

39 (7) (A) In the case of a victim who is permanently disabled as
40 a direct result of the crime, whether the disability is partial or total,

1 authorize a reimbursement for the expense of renovating or
2 retrofitting his or her residence or a vehicle, or both, to make the
3 residence, the vehicle, or both, accessible or the vehicle
4 operational by the victim. Reimbursement shall be made upon
5 verification that the expense is medically necessary.

6 (B) The board shall develop procedures to ensure that
7 reimbursement is made only for the purposes of this paragraph.
8 The procedures may include, but need not be limited to, requiring
9 copies of receipts, invoices, estimates, or other documents, or
10 developing a method for direct payment to the vendor.

11 (8) Obtain an independent examination and report from any
12 provider of psychological or psychiatric treatment or mental
13 health counseling services, if it believes there is a reasonable basis
14 for requesting an additional evaluation. In cases where the crime
15 involves sexual assault, the provider shall have expertise in the
16 needs of sexual assault victims. In cases where the crime involves
17 child abuse or molestation, the provider shall have expertise in the
18 needs of victims of child abuse or molestation, as appropriate.
19 When a reevaluation is obtained, payments shall not be
20 discontinued prior to completion of the reevaluation.

21 (9) When a victim dies as a direct result of a crime, the board
22 may reimburse any individual who voluntarily, and without
23 anticipation of personal gain, pays or assumes the obligation to
24 pay, the medical or burial expenses incurred as a direct result of the
25 crime for the medical or burial expenses incurred in an amount not
26 to exceed the rates or limitations established by the board.

27 (10) The total award to or on behalf of the victim or a derivative
28 victim shall not exceed thirty-five thousand dollars (\$35,000), and
29 may be increased only in accordance with this section.

30 (11) If the victim requests that the board give priority to
31 reimbursement of loss of wages, the board shall not pay medical
32 expenses or mental health counseling expenses except upon the
33 request of the victim or after determining that payment of these
34 expenses will not decrease the funds available to the victim for
35 payment of loss of wages.

36 (12) The board may authorize a direct cash payment to a
37 provider of services that are reimbursable pursuant to this article.
38 However, the board may not, without good cause, authorize a
39 direct cash payment to a provider over the objection of the victim
40 or applicant.

(13) When a victim dies as a result of a crime and the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Health Services as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim or derivative victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to the victim's or derivative victim's need, subject to the maximum limits provided in this section.

(d) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this article.

(f) The maximum cash payments authorized in paragraph (10) of subdivision (a) shall be increased to seventy thousand dollars (\$70,000) if federal funds for those increases are available.

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars (\$46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not exceed the limits imposed by subdivisions (a) and (j).

(i) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(j) (1) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, for which restitution is requested pursuant to this section. For mental health ~~and~~ counseling services, rates shall not exceed the statewide average. The adoption, amendment, and repeal of these maximum rates shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service.

(2) To assure service limitations that are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars (\$5,000) to determine the

1 need to continue treatment in excess of that amount. The board
2 may accept or reject claims for the amount in excess of five
3 thousand dollars (\$5,000) by applying the same standards
4 applicable to processing the initial claim or may approve a
5 continuing treatment regimen for a specific interval or subject to
6 periodic review as appropriate. All information requested of the
7 treating therapist shall be provided at no cost to the applicant, the
8 board, or to local victim centers, pursuant to subdivision (b) of
9 Section 13962. Requests for additional information shall be made
10 in a timely manner so as not to interfere with necessary treatment.

11 (k) The authority provided by this section shall not be
12 construed to in any way diminish, enhance, or otherwise affect any
13 authority that the board may have under current law except as
14 explicitly provided in this section.

15 (l) The board, in its discretion, may make payments directly to
16 providers prior to verification.

17 (m) Notwithstanding paragraph (1) of subdivision (a), the
18 board may reimburse a victim or derivative victim for mental
19 health counseling in excess of that authorized by that paragraph if
20 the claim is based on dire or exceptional circumstances that require
21 more extensive treatment, as approved by the board.

22 (n) Notwithstanding paragraph (1) of subdivision (a), if, as of
23 December 31, 1993, a person has incurred mental health
24 counseling expenses pursuant to this article in excess of one-half
25 of the amount specified in that subdivision, the board may award,
26 in addition to amounts awarded for previously incurred expenses,
27 an amount equal to not more than one-half of the applicable
28 maximum amount specified in that paragraph or any additional
29 amounts as the board determines is necessary.

30 (o) The total award to or on behalf of a victim of a crime
31 committed in violation of subdivision (d) of Section 261.5 of the
32 Penal Code shall not exceed three thousand dollars (\$3,000) for
33 mental health counseling expenses only.

34 (p) This section shall remain in effect only until January 1,
35 2004, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, 2004, deletes or extends that date.

37 SEC. 97. Section 13965 of the Government Code, as amended
38 by Section 11.5 of Chapter 712 of the Statutes of 2001, is amended
39 to read:



1 13965. (a) If the application for assistance is approved, the
2 board shall determine what type of state assistance will best aid the
3 victim or derivative victim. The board may take any or all of the
4 following actions:

5 (1) Reimburse the following persons for the expense of their
6 outpatient mental health counseling when that mental health
7 counseling is necessary as a direct result of the crime:

8 (A) A victim in an amount not to exceed ten thousand dollars
9 (\$10,000).

10 (B) A derivative victim who is the surviving parent, sibling,
11 child, spouse, or fiancé of a victim of a crime which directly
12 resulted in the death of the victim in an amount not to exceed ten
13 thousand dollars (\$10,000).

14 (C) A derivative victim who is the primary caretaker of a minor
15 victim of sexual or physical abuse whose claim is not denied or
16 reduced pursuant to subdivision (b) or (d) of Section 13964 in a
17 total amount not to exceed ten thousand dollars (\$10,000) for not
18 more than two derivative victims described in this subparagraph.

19 (D) A derivative victim not eligible for reimbursement
20 pursuant to subparagraph (B) or (C) in an amount not to exceed
21 three thousand dollars (\$3,000).

22 The board may authorize a direct cash payment to a provider of
23 psychological or psychiatric treatment or mental health counseling
24 services, including peer counseling services provided by a rape
25 crisis center as defined by Section 13837 of the Penal Code or to
26 either the victim or the derivative victim, equal to the pecuniary
27 loss attributable to medical or medical-related expenses, including
28 counseling, directly resulting from the injury. Reimbursement on
29 the initial claim for any psychological, psychiatric, or mental
30 health counseling services, including peer counseling services
31 provided by a rape crisis center, shall, if the application has been
32 approved, be paid by the board within 90 days of the date of receipt
33 of the claim for payment, with subsequent payments to be made
34 to the provider within one month of the receipt of a claim for
35 payment. However, the board may not authorize without good
36 cause a direct cash payment to a licensed health care provider or
37 rape crisis center over the objection of the applicant.

38 When a public agency, including a court or district attorney or
39 a police, county child protective services, or other state or local
40 governmental agency, refers a victim of crime to a private

1 nonprofit agency for treatment for that victim, the private
2 nonprofit agency shall be reimbursed for those services at the level
3 of the normal and customary fee charged by the private nonprofit
4 agency to clients with adequate means of payment for its services,
5 except that this reimbursement shall not exceed the maximum
6 reimbursement rates set by the board and may be made only to the
7 extent that the victim otherwise qualifies for services under the
8 victims of crime program and that other reimbursement or direct
9 subsidies are not available to serve the victim.

10 Payments authorized pursuant to this paragraph for peer
11 counseling services provided by a rape counseling center shall not
12 exceed fifteen dollars (\$15) for each hour of services provided.
13 Those services shall be limited to individual, in-person counseling
14 on a face-to-face basis for a period not to exceed 10 weeks plus one
15 series of facilitated support group counseling sessions.

16 (2) Authorize a cash payment to the victim or derivative victim
17 equal to the pecuniary loss resulting from loss of wages pursuant
18 to Section 13965.1.

19 (3) Authorize a cash payment to a derivative victim for loss of
20 support pursuant to Section 13965.1.

21 (4) (A) Authorize a cash payment or reimbursement not to
22 exceed two thousand dollars (\$2,000) to a victim of sexual assault
23 or domestic violence for expenses incurred in relocating, if the
24 expenses are determined by law enforcement to be necessary for
25 the personal safety of the victim or by a mental health treatment
26 provider to be necessary for the emotional well-being of the
27 victim. These expenses may include, but need not be limited to, all
28 of the following:

29 (i) Deposits for utilities and telephone service.

30 (ii) Deposits for rental housing, not to exceed the first and last
31 ~~month's~~ *months'* rent and a security deposit or two thousand
32 dollars (\$2,000), whichever is less.

33 (iii) Temporary lodging and food expenses, not to exceed one
34 thousand dollars (\$1,000).

35 (iv) Clothing and other personal items, not to exceed five
36 hundred dollars (\$500).

37 (B) The board shall develop procedures to ensure that the
38 victim is using the cash payment only for the purposes of this
39 paragraph. The procedures may include, but need not be limited
40 to, requiring copies of receipts, lease agreements, or other

1 documents as requested, or developing a method of direct payment
2 to the landlord or vendor.

3 (C) When a relocation payment or reimbursement is provided
4 to a victim of sexual assault or domestic violence, the victim shall
5 agree to not inform the offender, if the identity of the offender is
6 known to the victim, of the location of the victim's new residence
7 and to not allow the offender, if the identity of the offender is
8 known to the victim, on the premises at any time, or shall agree to
9 seek a restraining order against the offender, if the identity of the
10 offender is known to the victim.

11 (D) The board may authorize a cash payment or reimbursement
12 pursuant to this paragraph to victims of crimes other than domestic
13 violence if the expenses are determined by law enforcement to be
14 necessary for the personal safety of the victim or by a mental health
15 treatment provider to be necessary for the emotional well-being of
16 the victim.

17 (E) The cash payment or reimbursement made under this
18 paragraph shall only be awarded once to any victim, except that the
19 board may, under compelling circumstances, award a second cash
20 payment or reimbursement to the same victim if both of the
21 following conditions are met:

22 (i) The crime or series of crimes occurs more than three years
23 from the date of the crime giving rise to the initial relocation cash
24 payment or reimbursement.

25 (ii) The crime does not involve the same perpetrator.

26 (5) Authorize cash payments to or on behalf of the victim for
27 job retraining or similar employment-oriented rehabilitative
28 services.

29 (6) (A) In the case of a victim of a crime that occurred in the
30 victim's residence, authorize reimbursement for the expense for
31 installing or increasing residential security, not to exceed one
32 thousand dollars (\$1,000). Installing or increasing residential
33 security may include, but need not be limited to, both of the
34 following:

35 (i) Home security device or system.

36 (ii) Replacing or increasing the number of locks.

37 (B) Reimbursement under this paragraph shall be made upon
38 verification by law enforcement to be necessary for the personal
39 safety of the victim or by a mental health treatment provider to be
40 necessary for the emotional well-being of the victim.

(C) The board shall develop procedures to ensure that the victim is using the reimbursement only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(7) (A) In the case of a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total, authorize reimbursement for the expense of renovating or retrofitting his or her residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by the victim. Reimbursement shall be made upon verification that the expense is medically necessary.

(B) The board shall develop procedures to ensure that reimbursement is made only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(8) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(9) When a victim dies as a direct result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay, the medical or burial expenses incurred as a direct result of the crime for the medical or burial expenses incurred in an amount not to exceed the rates or limitations established by the board.

(10) The total award to or on behalf of the victim or a derivative victim shall not exceed thirty-five thousand dollars (\$35,000), and may be increased only in accordance with this section.

(11) If the victim requests that the board give priority to reimbursement of loss of wages, the board shall not pay medical expenses or mental health counseling expenses except upon the

1 request of the victim or after determining that payment of these
2 expenses will not decrease the funds available to the victim for
3 payment of loss of wages.

4 (12) The board may authorize a direct cash payment to a
5 provider of services that are reimbursable pursuant to this article.
6 However, the board may not, without good cause, authorize a
7 direct cash payment to a provider over the objection of the victim
8 or applicant.

9 (13) When a victim dies as a result of a crime and the crime
10 occurs in a residence, the board may reimburse any individual who
11 voluntarily, and without anticipation of personal gain, pays or
12 assumes the obligation to pay the reasonable costs to clean the
13 scene of the crime in an amount not to exceed one thousand dollars
14 (\$1,000). Services reimbursed pursuant to this subdivision shall be
15 performed by persons registered with the State Department of
16 Health Services as trauma scene waste practitioners in accordance
17 with Chapter 9.5 (commencing with Section 118321) of Part 14 of
18 Division 104 of the Health and Safety Code.

19 (b) Assistance granted pursuant to this article shall not
20 disqualify an otherwise eligible victim or derivative victim from
21 participation in any other public assistance program.

22 (c) Cash payments made pursuant to this article may be on a
23 one-time or periodic basis. If periodic, the board may increase,
24 reduce, or terminate the amount of assistance according to the
25 victim's or derivative victim's need, subject to the maximum limits
26 provided in this section.

27 (d) The board shall pay attorney's fees representing the
28 reasonable value of legal services rendered to the applicant, in an
29 amount equal to 10 percent of the amount of the award, or five
30 hundred dollars (\$500), whichever is less for each victim and each
31 derivative victim. An attorney receiving fees from another source
32 may waive the right to receive fees under this section. Payments
33 under this section shall be in addition to any amount authorized or
34 ordered under subdivision (d) of Section 13969.1.

35 (e) No attorney shall charge, demand, receive, or collect any
36 amount for services rendered in connection with any proceedings
37 under this article except as awarded under this article.

38 (f) The maximum cash payments authorized in paragraph (10)
39 of subdivision (a) shall be increased to seventy thousand dollars
40 (\$70,000) if federal funds for those increases are available.

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars (\$46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not exceed the limits imposed by subdivisions (a) and (j).

(i) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(j) (1) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, for which restitution is requested pursuant to this section. For mental health ~~and~~ counseling services, rates shall not exceed the statewide average. The adoption, amendment, and repeal of these maximum rates shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of

1 payments accepted would exceed the maximum rate set by the
2 board for that service.

3 (2) To assure service limitations that are uniform and
4 appropriate to the levels of treatment required by the victim or
5 derivative victim, the board may review all claims for these
6 services as necessary to ensure their medical necessity. The board
7 may further require additional documentation, information, or
8 medical review of cases of continuing treatment which are
9 projected to exceed five thousand dollars (\$5,000) to determine the
10 need to continue treatment in excess of that amount. The board
11 may accept or reject claims for the amount in excess of five
12 thousand dollars (\$5,000) by applying the same standards
13 applicable to processing the initial claim or may approve a
14 continuing treatment regimen for a specific interval or subject to
15 periodic review as appropriate. All information requested of the
16 treating therapist shall be provided at no cost to the applicant, the
17 board, or to local victim centers, pursuant to subdivision (b) of
18 Section 13962. Requests for additional information shall be made
19 in a timely manner so as not to interfere with necessary treatment.

20 (k) The authority provided by this section shall not be
21 construed to in any way diminish, enhance, or otherwise affect any
22 authority that the board may have under current law except as
23 explicitly provided in this section.

24 (l) The board, in its discretion, may make payments directly to
25 providers prior to verification.

26 (m) Notwithstanding paragraph (1) of subdivision (a), the
27 board may reimburse a victim or derivative victim for mental
28 health counseling in excess of that authorized by that paragraph if
29 the claim is based on dire or exceptional circumstances that require
30 more extensive treatment, as approved by the board.

31 (n) Notwithstanding paragraph (1) of subdivision (a), if, as of
32 December 31, 1993, a person has incurred mental health
33 counseling expenses pursuant to this article in excess of one-half
34 of the amount specified in that subdivision, the board may award,
35 in addition to amounts awarded for previously incurred expenses,
36 an amount equal to not more than one-half of the applicable
37 maximum amount specified in that paragraph or any additional
38 amounts as the board determines is necessary.

39 (o) This section shall become operative on January 1, 2004.

1 SEC. 98. Section 14672.99 of the Government Code is
2 amended to read:

3 14672.99. (a) Notwithstanding Section 14670, the Director
4 of General Services, with the consent of the Department of the
5 Youth Authority, shall lease a ~~five-acre~~ *five-acre* portion of the Ione
6 Youth Facility as designated by the Department of the Youth
7 Authority, for a term not to exceed 30 years and at the rate of one
8 dollar (\$1) per year, to the County of Amador on behalf of the
9 Mother Lode Juvenile Facility Authority for use as a regional
10 juvenile detention facility.

11 (b) The lease shall provide that the property shall be leased “as
12 is” and that the state shall have no liability for repairs,
13 rehabilitation, or other improvements. It shall provide that the
14 lessee county or the authority shall complete the detention facility
15 not later than three years after the effective date of the lease, and
16 that the facility shall be operated by the authority pursuant to the
17 terms of the lease.

18 (c) The lease described in this section shall be exempt from the
19 requirements of Division 13 (commencing with Section 21000) of
20 the Public Resources Code.

21 (d) The Department of General Services shall be reimbursed
22 for its costs related to the lease, including, but not limited to, any
23 survey costs, title transfer fees, and department staff time.

24 (e) For purposes of this section, “Mother Lode Juvenile
25 Facility Authority” means the joint powers authority comprising
26 the Counties of Amador, Calaveras, and Tuolumne.

27 (f) The Legislature finds and declares that the lease of a portion
28 of the Ione Youth Facility to the County of Amador on behalf of
29 the Mother Lode Juvenile Facility Authority for use as a juvenile
30 detention facility pursuant to this section, is for a statewide public
31 purpose.

32 SEC. 99. Section 14684 of the Government Code is amended
33 to read:

34 14684. (a) The department, in consultation with the State
35 Energy Resources Conservation and Development Commission,
36 shall ensure that solar energy equipment is installed, no later than
37 January 1, 2007, on all state buildings and state parking facilities,
38 where feasible. The department shall establish a schedule
39 designating when solar energy equipment will be installed on each
40 building and facility, with priority given to buildings and facilities

1 where installation is most feasible, both for state building and
2 facility use and consumption and local publicly owned electric
3 utility use, where feasible.

4 (b) Solar energy equipment shall be installed where feasible as
5 part of the construction of all state buildings and state parking
6 facilities that commences after December 31, 2002.

7 (c) For purposes of this section, it is feasible to install solar
8 energy equipment if adequate space on a building is available, and
9 if the solar energy equipment is cost-effective. ~~funding is~~
10 ~~available.~~

11 (d) No part of this section shall be construed to exempt the state
12 from any applicable fee or requirement imposed by the Public
13 Utilities Commission.

14 (e) The department may adopt regulations for the purposes of
15 this section as emergency regulations in accordance with Chapter
16 3.5 (commencing with Section 11340) of Part 1. For purposes of
17 Chapter 3.5 (commencing with Section 11340) of Part 1,
18 including, but not limited to, Section 11349.6, the adoption of the
19 regulations shall be considered by the Office of Administrative
20 Law to be necessary for the immediate preservation of the public
21 peace, health, safety, and general welfare. Notwithstanding the
22 120-day limit specified in subdivision (e) of Section 11346.1, the
23 regulations shall be repealed 180 days after their effective date,
24 unless the department complies with Chapter 3.5 (commencing
25 with Section 11340) of Part 1 as provided in subdivision (e) of
26 Section 11346.1.

27 (f) For purposes of this section, the following terms have the
28 following meanings:

29 (1) "Cost-effective" means that the present value of the
30 savings generated over the life of the solar energy system,
31 including consideration of the value of the energy produced during
32 peak and off-peak demand periods and the value of a reliable
33 energy supply not subject to price volatility, shall exceed the
34 present value cost of the solar energy equipment by not less than
35 10 percent. The present value cost of the solar energy equipment
36 does not include the cost of unrelated building components. The
37 department, in making the present value assessment, shall obtain
38 interest rates, discount rates, and consumer price index figures
39 from the Treasurer, and shall take into consideration air emission
40 reduction benefits.

1 (2) “Local publicly owned electric utility” means a local
2 publicly owned electric utility as defined in Section 9604 of the
3 Public Utilities Code.

4 (3) “Solar energy equipment” means equipment whose
5 primary purpose is to provide for the collection, conversion,
6 storage, or control of solar energy for electricity generation.

7 SEC. 100. Section 19574 of the Government Code is
8 amended to read:

9 19574. (a) The appointing power, or its authorized
10 representative, may take adverse action against an employee for
11 one or more of the causes for discipline specified in this article.
12 Adverse action is valid only if a written notice is served on the
13 employee prior to the effective date of the action, as defined by
14 board rule. The notice shall be served upon the employee either
15 personally or by mail and shall include: (1) a statement of the
16 nature of the adverse action; (2) the effective date of the action; (3)
17 a statement of the reasons therefor in ordinary language; (4) a
18 statement advising the employee of the right to answer the notice
19 orally or in writing; and (5) a statement advising the employee of
20 the time within which an appeal must be filed. The notice shall be
21 filed with the board not later than 15 calendar days after the
22 effective date of the adverse action.

23 (b) Effective January 1, 1996, this subdivision shall apply only
24 to state employees in State Bargaining Unit 5. This section shall
25 not apply to discipline as defined by Section 19576.1.

26 (c) This subdivision shall apply only to state employees in State
27 Bargaining Unit 8. This section shall not apply to minor discipline,
28 as defined by Section 19576.5 or a memorandum of
29 understanding.

30 ~~(e)~~

31 (d) This subdivision shall apply only to state employees in State
32 Bargaining Units 8, 12, and 13. If the provisions of this section are
33 in conflict with the provisions of a memorandum of understanding
34 reached pursuant to Section 3517.5, the memorandum of
35 understanding shall be controlling without further legislative
36 action, except that if the provisions of the memorandum of
37 understanding require the expenditure of funds, the provisions
38 may not become effective unless approved by the Legislature in
39 the annual Budget Act.



1 SEC. 101. Section 20423.5 of the Government Code is
2 amended to read:

3 20423.5. “Local safety member” also includes any park
4 ranger employed by a contracting agency who is a peace officer as
5 defined in subdivision (b) of Section 830.31 of the Penal Code and
6 whose primary responsibility is maintaining the peace and whose
7 duties include law enforcement, emergency medical care first
8 response, or fire suppression and prevention.

9 This section shall not apply to any contracting agency nor to the
10 employees of a contracting agency until the agency elects to be
11 subject to this section by amendment to ~~is~~ *its* contract with the
12 board pursuant to Section 20474, or by express provision within
13 its contract with the board.

14 SEC. 102. Section 20429 of the Government Code is
15 amended to read:

16 20429. “Local police officer” also includes any officer or
17 employee of a contracting agency other than a city or a county who
18 is a peace officer as defined in the Penal Code and whose principal
19 duties consist of active law enforcement but excluding clerical
20 personnel or those whose principal duties are that of
21 communication officer, identification officer, machinist,
22 mechanic, security officer or are otherwise not clearly within the
23 scope of active law enforcement, even though the person is subject
24 to occasional call, or is occasionally called upon ~~the~~ *to* perform
25 duties within the scope of active law enforcement.

26 The provisions of this section shall apply to any contracting
27 agency that is not a city or county with respect to any of its
28 employees who were local police officers within the meaning of
29 Section 20425 prior to its amendment by Chapter 625 of the
30 Statutes of 1975 and in employment on January 1, 1976.

31 The provisions of this section shall not otherwise apply to the
32 employees of any contracting agency nor to any contracting
33 agency until the contracting agency elects to be subject to the
34 provisions of this section by amendment to its contract with the
35 board made as provided in Section 20474 or by express provision
36 in its contract with the board.

37 SEC. 103. Section 20677.3 of the Government Code is
38 amended to read:

39 20677.3. (a) Notwithstanding any provisions of Section
40 20677 to the contrary, the normal rate of contribution for state

1 miscellaneous and state industrial members in State Bargaining
2 Units 7 and 8 shall be the rate specified in this section.

3 (b) (1) Subject to the provisions of subdivision (f), for a
4 member described in subdivision (a) whose service is not included
5 in the federal system, the normal rate of contribution shall be 3.5
6 percent of the compensation in excess of three hundred seventeen
7 dollars (\$317) per month paid that member for service rendered
8 during the period from August 31, 2001, to June 30, 2002,
9 inclusive.

10 (2) Subject to the provisions of subdivision (f), for a member
11 described in subdivision (a) whose service is not included in the
12 federal system, the normal rate of contribution shall be 1 percent
13 of the compensation in excess of three hundred seventeen dollars
14 (\$317) per month paid that member for service rendered during the
15 period from July 1, 2002, to June 30, 2003, inclusive.

16 (3) Subject to the provisions of subdivision (f), for a member
17 described in subdivision (a) whose service has been included in the
18 federal system, the normal rate of contribution shall be 2.5 percent
19 for the compensation in excess of five hundred thirteen dollars
20 (\$513) per month paid that member for service rendered during the
21 period from August 31, 2001, to June 30, 2002, inclusive.

22 (4) Subject to the provisions of subdivision (f), for a member
23 described in subdivision (a) whose service has been included in the
24 federal system, the normal rate of contribution shall be 0 percent
25 for the compensation in excess of five hundred thirteen dollars
26 (\$513) per month paid that member for service rendered during the
27 period from July 1, 2002, to June 30, 2003, inclusive.

28 (c) Subject to the provisions of subdivision (f) and
29 notwithstanding any provisions of Section 21073.3, a member
30 who elects to become subject to the benefits prescribed in Section
31 21354.1 and who is subject to this section shall be subject to the
32 normal rate of contribution set forth in this section as of the first
33 day of the month following the date the election is described by the
34 system and shall be applicable to state ~~service~~ service rendered
35 subject to Section 21354.1.

36 (d) This section does not apply to members employed by the
37 California State University or the University of California.

38 (e) This section does not apply to state miscellaneous and state
39 industrial members who are subject to Section 21076.

1 (f) If the membership of State Bargaining Unit 7 or 8 does not
2 ratify its respective memorandum of understanding on or before
3 December 15, 2001, the normal contribution rate for the members
4 of that specific state bargaining unit shall be restored to the level
5 in effect on August 30, 2001, as set forth in Section 20677,
6 beginning with the December 2001 pay period for the
7 compensation paid that member for service.

8 (g) This subdivision shall apply to state employees in State
9 Bargaining Units 7 and 8. If the provisions of this section are in
10 conflict with the provisions of a memorandum of understanding
11 reached pursuant to Section 3517.5, the memorandum of
12 understanding shall be controlling without further legislative
13 action, except that if the provisions of a memorandum of
14 understanding require the expenditure of funds, the provisions
15 may not become effective unless approved by the Legislature in
16 the annual Budget Act.

17 (h) This section shall become inoperative on July 1, 2003, and,
18 as of January 1, 2004, is repealed, unless a later enacted statute,
19 that becomes operative on or before January 1, ~~2002~~ 2004, deletes
20 or extends the dates on which it becomes inoperative and is
21 repealed.

22 SEC. 104. Section 20683.2 of the Government Code is
23 amended to read:

24 20683.2. (a) Notwithstanding any provisions of Section
25 20683 to the contrary, the normal rate of contribution for state
26 safety members subject to Section 21369.1 in State Bargaining
27 Units 7 and 8 shall be the rate specified in this section.

28 (b) (1) Subject to the provisions of subdivision (e), from
29 August 31, 2001, to June 30, 2002, inclusive, the normal rate of
30 contribution shall be 3.5 percent of the compensation in excess of
31 three hundred seventeen dollars (\$317) per month paid that
32 member for service rendered.

33 (2) Subject to the provisions of subdivision (e), from July 1,
34 2002, to June 30, 2003, inclusive, the normal rate of contribution
35 shall be 1 percent of the compensation in excess of three hundred
36 seventeen dollars (\$317) per month paid that member for service
37 rendered.

38 (c) This section does not apply to members employed by the
39 California State University or the University of California.

(d) If the membership of State Bargaining Unit 7 or 8 does not ratify its respective memorandum of understanding on or before December 15, 2001, the normal contribution rate for the members of that specific state bargaining unit shall be restored to the level in effect on August 30, 2001, as set forth in Section 20683, beginning with the December 2001 pay period for the compensation paid that member for service.

(e) This subdivision shall apply to state employees in State Bargaining Units 7 and 8. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(f) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2002~~ 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 105. Section 20816 of the Government Code is amended to read:

20816. (a) Notwithstanding any other provision of this part, all assets of an employer shall be used in the determination of the employer contribution rate for the membership comprising the basis of the computation. Assets held shall be recognized over the same funding period used to amortize unfunded accrued actuarial obligations whether in excess of the accrued actuarial obligation or not, using the entry age normal funding method.

(b) On and after January 1, 1999, contracting agencies for which the actuarial value of assets exceeds the present value of benefits as of the most recently completed valuation, as determined by the chief actuary, may request that the board transfer employer assets to member-accumulated contribution accounts to satisfy all member contributions required by this part. That transfer shall be over a 12-month period provided the actuarial value of assets exceeds the present value of benefits. In determining the present value of benefits and the actuarial value

1 of assets for purposes of this part, liabilities and assets attributed
2 to the 1959 survivor allowance shall not be included.

3 (c) On and after January 1, 2002, any contracting agency for
4 which the actuarial value of assets exceeds the present value of
5 benefits as of the most recently completed valuation, as
6 determined by the chief actuary, may request that the board
7 transfer from the contracting agency's employer account excess
8 assets, as determined by the board subject to the requirements and
9 limitations of Section 420 of the Internal Revenue Code (26 U.S.C.
10 Sec. 420), to a retiree health account established by the board, in
11 its discretion, in the contracting agency's employer account
12 pursuant to Section 401(h) of the Internal Revenue Code (26
13 U.S.C. Sec. 401(h)) for the purpose of providing health benefits to
14 the contracting agency's retirees and their covered dependents.
15 The board may, in its discretion, transfer excess assets from the
16 contracting agency's employer account to that contracting
17 agency's retiree health account within that agency's employer
18 account, provided the transfer meets the conditions of a qualified
19 transfer pursuant to Section 420 of the Internal Revenue Code (26
20 U.S.C. Sec. 420). The transferred assets shall be used solely for the
21 payment of current retiree health liabilities. ~~That~~ A qualified
22 transfer ~~shall~~ may be made only once each year. The board may
23 adopt regulations necessary to implement this subdivision.
24 Notwithstanding any other provision of law, the regulations may
25 provide for the nonforfeiture of accrued pension benefits of
26 participants and beneficiaries of a plan from which excess assets
27 are transferred to the extent necessary for the transfer to meet the
28 conditions of a qualified transfer pursuant to Section 420 of the
29 Internal Revenue Code (26 U.S.C. Sec. 420), and may include any
30 other provision necessary under Section 420 of the Internal
31 Revenue Code (26 U.S.C. Sec. 420) or Section 401(h) of the
32 Internal Revenue Code (26 U.S.C. Sec. 401(h)) to accomplish the
33 purposes of this subdivision.

34 (d) For the purpose of this section, "employer" means any
35 contracting agency, the state, or a school employer.

36 (e) The actuarial report in the annual financial report shall also
37 express the effect upon employer contribution rates of this section
38 and of the recognition of net unrealized gains and losses.

39 SEC. 106. Section 21327 of the Government Code is
40 amended to read:



21327. In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, effective January 1, 1980, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state or local member, other than a school member, who retired or died prior to January 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period ~~During Which Retirement~~

~~—or Death Occurred~~ during which retirement

or death occurred

Percentage

12 months ending Dec. December 31, 1967	1.51
12 months ending Dec. December 31, 1968	1.26
12 months ending Dec. December 31, 1969	1.86
12 months ending Dec. December 31, 1970	2.55
6 months ending June 30, 1971	1.91
6 months ending Dec. December 31, 1971	7.05
12 months ending Dec. December 31, 1972	6.76
12 months ending Dec. December 31, 1973	4.45
6 months ending June 30, 1974	0.47
6 months ending Dec. December 31, 1974	1.31

The percentage shall be applied to the allowance payable on January 1, 1980, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after the date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 107. Section 21354.3 of the Government Code is amended to read:

1 21354.3. (a) The combined current and prior service
2 pensions for a local miscellaneous member is a pension derived
3 from the contributions of the employer sufficient, when added to
4 the service retirement annuity that is derived from the accumulated
5 normal contributions of the member at the date of retirement, to
6 equal the fraction of one-fiftieth of the member's final
7 compensation set forth opposite the member's age at retirement,
8 taken to the preceding completed quarter year, in the following
9 table, multiplied by the number of years of current and prior
10 service except service in a category of membership other than that
11 of local miscellaneous member with which the member is entitled
12 to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 ¹ / ₄	1.0125
50 ¹ / ₂	1.0250
50 ³ / ₄	1.0375
51	1.0500
51 ¹ / ₄	1.0625
51 ¹ / ₂	1.0750
51 ³ / ₄	1.0875
52	1.1000
52 ¹ / ₄	1.1125
52 ¹ / ₂	1.1250
52 ³ / ₄	1.1375
53	1.1500
53 ¹ / ₄	1.1625
53 ¹ / ₂	1.1750
53 ³ / ₄	1.1875
54	1.2000
54 ¹ / ₄	1.2125
54 ¹ / ₂	1.2250
54 ³ / ₄	1.2375
55	1.2500
55 ¹ / ₄	1.2625
55 ¹ / ₂	1.2750
55 ³ / ₄	1.2875
56	1.3000

1	56 ¹ / ₄	1.3125
2	56 ¹ / ₂	1.3250
3	56 ³ / ₄	1.3375
4	57	1.3500
5	57 ¹ / ₄	1.3625
6	57 ¹ / ₂	1.3750
7	57 ³ / ₄	1.3875
8	58	1.4000
9	58 ¹ / ₄	1.4125
10	58 ¹ / ₂	1.4250
11	58 ³ / ₄	1.4375
12	59	1.4500
13	59 ¹ / ₄	1.4625
14	59 ¹ / ₂	1.4750
15	59 ³ / ₄	1.4875
16	60 and over	1.5000

17

18 (b) The fraction specified in the above table shall be reduced by
 19 one-third as applied to that part of final compensation that does not
 20 exceed four hundred dollars (\$400) per month for all services of
 21 a member any of whose service has been included in the federal
 22 system. This reduction shall not apply to a member employed by
 23 a contracting agency that enters into a contract after July 1, 1971,
 24 and who elects not to be subject to this ~~paragraph~~ *subdivision* or
 25 with respect to service rendered after the termination of coverage
 26 under the federal system with respect to the coverage group to
 27 which the member belongs.

28 (c) This section shall supersede Sections 21353 and 21354 with
 29 respect to any local miscellaneous member who is employed by a
 30 contracting agency on or after the date this section becomes
 31 applicable to the contracting agency.

32 (d) This section shall not apply to a contracting agency nor its
 33 employees until the contracting agency elects to make all local
 34 miscellaneous members subject to it by amendment to its contract
 35 made in the manner prescribed for approval of contracts or in the
 36 case of a new contract, by express provision of the contract. The
 37 operative date of this section with respect to a local miscellaneous
 38 member shall be the effective date of the amendment to his or her
 39 employer's contract electing to be subject to this section.



SEC. 108. Section 21354.4 of the Government Code is amended to read:

21354.4. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this ~~paragraph~~ *subdivision* or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353 and 21354 with respect to any local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 109. Section 21354.5 of the Government Code is amended to read:

21354.5. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service, except service in a category of membership other than that of a local miscellaneous member, with which the member is entitled to be credited at retirement:

Age of at		Fraction
Retirement		
50	1.0000

1	50 ¹ / ₄	1.0175
2	50 ¹ / ₂	1.0350
3	50 ³ / ₄	1.0525
4	51	1.0700
5	51 ¹ / ₄	1.0875
6	51 ¹ / ₂	1.1050
7	51 ³ / ₄	1.1225
8	52	1.1400
9	52 ¹ / ₄	1.1575
10	52 ¹ / ₂	1.1750
11	52 ³ / ₄	1.1925
12	53	1.2100
13	53 ¹ / ₄	1.2275
14	53 ¹ / ₂	1.2450
15	53 ³ / ₄	1.2625
16	54	1.2800
17	54 ¹ / ₄	1.2975
18	54 ¹ / ₂	1.3150
19	54 ³ / ₄	1.3325
20	55 and over	1.3500

21

22 (b) The fractions specified in the above table shall be reduced
 23 by one-third as applied to that part of final compensation that does
 24 not exceed four hundred dollars (\$400) per month for all service
 25 of a member any of whose service has been included in the federal
 26 system. This reduction shall not apply to a member employed by
 27 a contracting agency that enters into a contract after July 1, 1971,
 28 and elects not to be subject to this ~~paragraph~~ *subdivision* or with
 29 respect to service rendered after the termination of coverage under
 30 the federal system with respect to the coverage group to which the
 31 member belongs.

32 (c) This section shall supersede Sections 21353 and 21354 with
 33 respect to any miscellaneous member who is employed by a
 34 contracting agency on or after the date this section becomes
 35 applicable to the contracting agency.

36 (d) This section shall not apply to a contracting agency nor its
 37 employees until the contracting agency elects to make all local
 38 miscellaneous members subject to it by amendment to its contract
 39 made in the manner prescribed for approval of contracts or in the
 40 case of a new contract, by express provision of the contract. The



operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 110. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement-:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875

1	54	1.2000
2	54 ¹ / ₄	1.2125
3	54 ¹ / ₂	1.2250
4	54 ³ / ₄	1.2375
5	55 and over	1.2500

6

7 (b) (1) In no event shall the current service pension and the
8 combined current and prior service pensions under this section for
9 all service to all employers exceed an amount that, when added to
10 the service retirement annuity related to that service, equals 75
11 percent of final compensation.

12 (2) For state members, with respect to service for all state
13 employers under this section, the benefit shall not exceed:

14 (A) Eighty percent of final compensation for state members
15 who retire on or after January 1, 1995.

16 (B) Eighty-five percent of final compensation for state peace
17 officer/firefighter members in State Bargaining Units 6 and 8 who
18 retire on or after January 1, 1999, and prior to January 1, 2000.

19 (C) Ninety percent of final compensation for state peace
20 officer/firefighter members who retire on or after January 1, 2000.

21 (3) For local safety members who retire on or after January 1,
22 2000, the benefit shall not exceed 85 percent of final
23 compensation. If the pension relates to service to more than one
24 employer, or this section and Section 21369, and would otherwise
25 exceed that maximum, the pension payable with respect to each
26 section or employer shall be reduced in the same proportion as the
27 allowance bears to the total allowance computed as though there
28 were no limit, so that the total of the pensions shall equal the
29 maximum. Where a state or local member retiring on or after
30 January 1, 1995, has service under this section with both state and
31 local agency employers, the higher maximum shall apply and the
32 additional benefit, if any, shall be funded by increasing the
33 member's pension payable with respect to the employer for whom
34 the member performed the service subject to the higher maximum.

35 (c) The Legislature reserves, with respect to any member
36 subject to this section, the right to provide for the adjustment of
37 industrial disability retirement allowances because of earnings of
38 a retired person and modification of the conditions and
39 qualifications required for retirement for disability as it may find



1 appropriate because of the earlier age of service retirement made
2 possible by the benefits under this section.

3 (d) This section may be applied to related supervisory classes
4 or confidential positions for the respective bargaining units
5 specified in this section.

6 (e) (1) This section shall be operative with respect to state
7 peace officer/firefighter members in Corrections Bargaining Unit
8 No. 6, Protective Services and Public Safety Bargaining Unit No.
9 7, or Firefighters Bargaining Unit No. 8, in accordance with a
10 memorandum of understanding reached between the state and the
11 exclusive bargaining agent in the respective unit pursuant to
12 Chapter 10.3 (commencing with Section 3512) of Division 4 of
13 Title 1.

14 (2) This section also shall be operative with respect to the state
15 peace officer/firefighter members employed by a California State
16 University police department who are in Public Safety Unit No. 8
17 in accordance with a memorandum of understanding reached
18 between the Trustees of the California State University and the
19 recognized employee organization pursuant to Chapter 12
20 (commencing with Section 3560) of Division 4 of Title 1.

21 (3) This section shall also be operative with respect to a “state
22 peace officer/firefighter member” defined in subdivision (a) of
23 Section 20396 if authorized by, and in accordance with, a
24 memorandum of understanding reached between the Trustees of
25 the California State University and the recognized employee
26 organization pursuant to Chapter 12 (commencing with Section
27 3560) of Division 4 of Title 1.

28 (4) Nothing in this section or in any other provision of law
29 affected by Chapter 1320 of the Statutes of 1984 or Chapter 234
30 of the Statutes of 1986 shall be construed as authorizing any future
31 negotiation with respect to whether or not any bargaining unit
32 specified in this section whose memorandum of understanding
33 was previously approved by the Legislature pursuant to law and
34 this section, shall continue to remain within the state peace
35 officer/firefighter membership category.

36 (5) The operative date of this section with respect to members
37 in each of the bargaining units specified in this section shall be as
38 provided for in the memorandum of understanding.

39 (6) With the exception of state peace officer/firefighter
40 members for service rendered for the California State University

1 or the legislative or judicial branch of government, this section
2 shall apply to state peace officer/firefighter members who are not
3 employed by the state on or after January 1, 2000.

4 (f) This section shall be known as, and may be cited as, the
5 State Peace Officers' and Fire Fighters' Retirement Act.

6 (g) The Legislature reserves the right to subsequently modify
7 or amend this part in order to completely effectuate the intent and
8 purposes of this section and the right to not provide any new
9 comparable advantages if disadvantages to employees result from
10 any modification or amendment.

11 (h) This section shall not apply to a contracting agency nor its
12 employees until, first, it is agreed to in a written memorandum of
13 understanding entered into by an employer and representatives of
14 employees and, second, the contracting agency elects to be subject
15 to it by amendment to its contract made in the manner prescribed
16 for approval of contracts or in the case of a new contract, by
17 express provision of the contract. The operative date of this section
18 with respect to a local safety member shall be the effective date of
19 the amendment to his or her employer's contract electing to be
20 subject to this section. However, this section shall not apply to any
21 local safety member in the employ of an employer not subject to
22 this section on January 1, 2000.

23 SEC. 111. Section 21423 of the Government Code is amended
24 to read:

25 21423. The disability retirement pension, other than an
26 industrial disability retirement pension, for a member, other than
27 a member who is subject to Section 21424 or 21427, shall be such
28 an amount as with that portion of his or her annuity provided by
29 his or her accumulated normal contributions, ~~will~~ *shall* make his
30 or her disability retirement allowance equal to one of the
31 following:

32 (a) Ninety percent of one-fiftieth of his or her final
33 compensation multiplied by the number of years of service
34 credited to him or her.

35 (b) If the disability retirement allowance computed under
36 subdivision (a) does not exceed one-third of his or her final
37 compensation, 90 percent of one-fiftieth of his *or her* final
38 compensation multiplied by the number of years of service that
39 would be creditable to him or her if his or her service were to
40 continue until attainment by him or her of the age of 60 years, but

1 in that case the retirement allowance shall not exceed one-third of
2 final compensation.

3 This subdivision is not applicable to members who are not
4 entitled, at the time of retirement, to be credited with at least 10
5 years of state service.

6 (c) If qualified for service retirement, the member shall receive
7 his or her service retirement allowance if that allowance is greater
8 than the disability retirement allowance provided by this section.

9 SEC. 112. Section 21661 of the Government Code is
10 amended to read:

11 21661. (a) The board shall contract with carriers offering
12 long-term care insurance plans and enter into health care service
13 plan contracts covering long-term care.

14 The long-term care insurance plans and health care service plan
15 contracts covering long-term care shall be made available
16 periodically during open enrollment periods determined by the
17 board.

18 (b) The board shall award contracts to carriers who are
19 qualified to provide long-term care benefits, and may develop and
20 administer self-funded long-term care insurance plans. The board
21 may offer one or more long-term care insurance plans or health
22 care service plan contracts covering long-term care and may offer
23 service or indemnity-type plans.

24 (c) The long-term care insurance plans and health care service
25 plan contracts covering long-term care shall include home,
26 community, and institutional care and shall, to the extent
27 determined by the board, provide substantially equivalent
28 coverage to that required under Chapter 2.6 (commencing with
29 Section 10230) of Part 2 of Division 2 of the Insurance Code, if the
30 carrier has been approved by the Department of Managed Health
31 Care pursuant to Chapter 2.2 (commencing with Section 1340) of
32 Division 2 of the Health and Safety Code.

33 (d) The classes of persons who shall be eligible to enroll are:

34 (1) Active and retired members and annuitants of the Public
35 Employees' *Retirement* System, and their spouses, their parents,
36 their siblings, and their spouses' parents.

37 (2) Active and retired members and annuitants of any county
38 or district subject to the County Employees Retirement Law of
39 1937, and their spouses, their parents, their siblings, and their
40 spouses' parents.



1 (3) Active and retired members and annuitants of the State
2 Teachers' Retirement System, and their spouses, their parents,
3 their siblings, and their spouses' parents.

4 (4) Active employees and retirees and annuitants of any public
5 agency that is a contracting agency under this part or Part 5
6 (commencing with Section 22751), and their spouses, their
7 parents, their siblings, and their spouses' parents.

8 (5) Active and retired members and annuitants of the Judges'
9 Retirement System, and their spouses, their parents, their siblings,
10 and their spouses' parents.

11 (6) Active and retired members and annuitants of the Judges'
12 Retirement System II, and their spouses, their parents, their
13 siblings, and their spouses' parents.

14 (7) Active and retired members and annuitants of the
15 Legislators' Retirement System, and their spouses, their parents,
16 their siblings, and their spouses' parents.

17 (8) Members of the California Assembly and Senate and their
18 spouses, their parents, their siblings, and their spouses' parents.

19 (9) Active and retired members and annuitants, and other
20 classes of employees of other public employee retirement systems
21 or public employers as the board determines may be eligible under
22 the standards the board may prescribe, and their spouses, their
23 parents, their siblings, and their spouses' parents.

24 (10) Active employees and retirees and annuitants of any
25 agency specified in paragraphs (1) through (9) who reside in the
26 United States, its territories and possessions, or in a country in
27 which a provider network can be established comparable in quality
28 and effectiveness to those established in the United States.

29 (e) Any California public agency or retirement system may
30 contract with the board to extend the provisions of this article to
31 its active and retired employees and annuitants.

32 (f) Irrespective of paragraphs (1) through (10), *inclusive*, of
33 subdivision (d), no person shall be enrolled unless he or she meets
34 the eligibility and underwriting criteria established by the board.

35 (g) Irrespective of paragraphs (1) through (10), *inclusive*, of
36 subdivision (d), enrollment of active employees of the State of
37 California shall be subject to Section 19867.

38 (h) The board shall establish eligibility criteria for enrollment,
39 establish appropriate underwriting criteria for potential enrollees,
40 define the scope of covered benefits, define the criteria to receive

1 benefits, and set any other standards as needed. As used in this
2 section, “sibling” shall mean a sibling who is at least 18 years of
3 age.

4 (i) The full cost of enrollment in a long-term care insurance
5 plan or in health care service plan contracts covering long-term
6 care shall be paid by the enrollees.

7 (j) The long-term care insurance plans and health care service
8 plan contracts covering long-term care shall not become part of,
9 or subject to, the retirement or health benefits programs
10 administered by the system.

11 (k) For any self-funded long-term care plan developed by the
12 board, the premiums shall be deposited in the Public Employees’
13 ~~Long-term~~ Long-Term Care Fund.

14 SEC. 113. Section 30071 of the Government Code is
15 amended to read:

16 30071. If any funds made available pursuant to Section 30061
17 or 30070, or pursuant to Item 8100-102-0001, 9210-106-0001, or
18 9210-108-0001 of Section 2.00 of the Budget Act of 2001
19 (*Chapter 106 of the Statutes of 2001*), or an appropriation for the
20 same purpose in a subsequent budget act, are used to fund the
21 surveillance or monitoring of persons, the use of those funds shall
22 comply with both of the following requirements:

23 ~~(1)~~

24 (a) The funds may only be used by law enforcement personnel
25 or employees of governmental agencies or other entities, either
26 public or private, for video surveillance or monitoring when there
27 is an articulable suspicion that the persons who are the target of the
28 surveillance or monitoring are engaging or have engaged in illegal
29 conduct.

30 ~~(2)~~

31 (b) The funds may not be used for any video surveillance or
32 monitoring of the general population.

33 SEC. 114. Section 31461.45 of the Government Code is
34 amended to read:

35 31461.45. (a) This section applies only to a county of the first
36 class, as defined by Section 28020.

37 (b) “Compensation earnable” in a county of the first class shall
38 include only those items of remuneration specifically included as
39 a result of the court-approved settlement in (1) the consolidated
40 cases of Los Angeles County Professional Peace Officers’

1 Association, et al. v. Board of Retirement, Los Angeles County
 2 Employees' Retirement Association; (Los Angeles County
 3 Superior Court, Case No. BS 051355) and Milton Cohen v. Board
 4 of Retirement, Los Angeles County Employees' Retirement
 5 Association; (Los Angeles County Superior Court, Case No. BS
 6 051774), (2) the case of Los Angeles County Fire Department
 7 Association of Chiefs, et al. v. Board of Retirement, Los Angeles
 8 County Employees' Retirement Association; County of Los
 9 Angeles; (Los Angeles County Superior Court, Case No. BS
 10 057432), and (3) the case of Cecil Bugh v. Board of Retirement,
 11 Los Angeles County Employees' Retirement System; (Los
 12 Angeles County Superior Court, Case No. BS 055611), all of
 13 which were included in Coordination Proceeding Special Title
 14 (Rule 1550(b)), Retirement Cases, Judicial Council Coordination
 15 Proceeding No. 4049, even if a final judicial determination in that
 16 coordinated case, or any subsequent case, should conclude that any
 17 additional item of remuneration must be included in that definition
 18 with respect to any other county. Those items of remuneration in
 19 addition to base salary and the pensionable portion, if any, of
 20 cafeteria plan contributions, are set forth in Resolution No 01-001,
 21 adopted by the ~~Board of Retirement~~ *board of retirement* on or
 22 before the effective date of this section and shall include only the
 23 following:

24		
25	Earnings	
26	Code No.	Title
27	099	Patrol Station Retention Bonus
28	358	Temporary Promotion Bonus
29	359	Lifeguard Paramedic, Catalina
30	503	Uniform Allowance
31	504	Night Shift Differential
32	505	Coroner's Inquest Reporter
33	507	Co-Generation or Hydro-Electric Ops and Mtce
34	508	Henninger Flats Watchman
35	509	Freezer Work
36	510	Department Head Merit
37	511	Board of Supervisors Performance Lump Sum
38	512	Fire Suppression Transportation Truck Driver
39	514	Backhoe Operator
40	516	Explosives Work

1	517	Evening Shift Differential
2	518	Power Equipment Repair, Snow Conditions
3	519	Engineering Employees, Hazard Pay
4	520	Home Care Compensation
5	522	Custodian Acting As Watchman
6	523	DPD Deputy Director Recruitment Incentive
7	525	Contracting and Productivity Improvement Incentive for
8		Managers
9	528	WEBCOM Press Operator
10	529	Power Equipment Operator, Fire Suppression
11	530	RN Extra Weekends Worked
12	531	Standby
13	532	Additional Responsibilities or Exceptional Performance
14	533	Power Sweeper Operator in Emergency Conditions
15	534	Power Plant Relief Engineer
16	535	Clinic Physician, First Hour and One-Half
17	536	Consulting Specialist, MD, & Mental Health Consultant,
18		MD, First And Fifth Hours
19	538	RN Assigned as Acting or Relief Charge Nurse
20	539	RN Weekend Differential
21	540	Relief Nurse Holiday Differential (Hourly Item)
22	541	Relief Nurse Weekend Differential (Hourly Item)
23	544	Appraisers Laundry and Dry Cleaning Allowance
24	545	Heavy Duty Tow Truck Driver
25	546	Slurry Seal Truck Driver
26	547	Lifeguard Paramedic-Shift
27	548	Lifeguard Paramedic-Hourly
28	550	Incentive Awards For Medi-Cal Reimbursements, Health
29		Services
30	551	Group Incentive Award, Treasurer Tax Collector
31	553	Pioneer Excavation, Tunnel Operations, Fire Suppression and
32		Snow Removal-Construction Inspection and Surveying
33		Groups
34	554	Pioneer Excavation, Tunnel Operations, Fire Suppression and
35		Snow Removal
36	555	Scaffold or Swing Stage, 30 Feet Above Grade
37	556	High Scale and Rigging Operations, General
38	557	Evening Shift, Med Tech
39	558	Night Shift, Med Tech

1	565	Paramedic Recertification Bonus
2	567	Deputy Sheriff Reserve Annual Compensation
3	570	Home Care Program Standby
4	571	CSW Licensure Supervision
5	572	MOU Lump Sum Bonus
6	601	Lifeguard Paramedic, Relief
7	602	Supervising Transportation Deputy Performing Dispatcher
8		Duties
9	603	Automotive Service Excellence Certificates
10	604	RN Mobile Intensive Care Certification
11	605	Custodian Floor Waxing Bonus
12	606	Fire Equipment Mechanic Assigned Field Repair Duties
13	607	SDPO Assigned Acting Director In A Camp
14	608	Bilingual Bonus
15	609	RN Assigned to Emergency Room
16	610	Antelope Valley Firefighting Crew
17	611	Tree Trimmer Supervisor, Power Operations
18	612	Shooting Bonus, Expert
19	613	Shooting Bonus, Distinguished Expert
20	614	Shooting Bonus, Marksman
21	615	Shooting Bonus, Sharpshooter
22	616	Antelope Valley Quarters, On Fire Call
23	617	Clinic Nurse Assigned to Probation Camp
24	618	Transportation Bus Driver, Sheriff
25	619	Lifeguard Paramedic
26	620	San Gabriel Dam Operator
27	621	Nurse Retention Incentive
28	622	Advanced Appraiser Certification
29	623	Probation Transcriber Typist Production Incentive
30	624	Bilingual Additional Bonus Children's Social Workers
31	625	Agriculture Inspectors Assigned to Standardization
32	626	Firefighter Paramedic not Assigned to a Paramedic Post
33	628	Bilingual Bonus for Other Than Monthly Employees
34	629	Mortuary Attendant at LAC/USC MC
35	630	Safety Police Educational/Longevity Incentive
36	632	Mental Health Workers Assigned to Sheriff's Detention
37		Facilities
38	634	Supervising Detention Services Officer of the Day
39	635	Transportation Deputy Bus Driver, Probation



1	636	Sheriff's Station Commander Expenses
2	637	Professional Development Expenses
3	638	Probation Telecom Equipment Bonus
4	639	Intern Housing Allowance LAC/USC Med. Center
5	640	Children's Services ERCP Retention
6	641	Shooting Bonus, Expert-Reserve
7	642	Shooting Bonus, Distinguished Expert-Reserve
8	643	Shooting Bonus, Marksman-Reserve
9	644	Shooting Bonus, Sharpshooter-Reserve
10	645	Welder Certification Bonus
11	782	FLSA Premium Pay for Regularly Scheduled Work
12		Assignment
13	903	Non-Elective Leave Buyback
14	910	Sick Buyback
15	911	Vacation Buyback
16	912	Holiday Buyback
17	913	Sick Pre-71 Buyback
18	914	Sick Buyback-Probation 56-Hour
19	915	Vacation Buyback-56 Hour
20	930	Special Paid Leave Buyback
21	931	Appraisers Leave Buyback
22	932	Intern/Resident Leave Buyback
23	None	Emp Suggest
24	None	Park, Nontaxable
25	None	Park, Taxable
26	None	Prior Salary
27	None	Transportation Allow
28	None	Traffic Mitigation

29

30

31 Any ~~such~~ additional item of remuneration may subsequently be
 32 included in "compensation earnable" pursuant to a memorandum
 33 of understanding between a county of the first class and any of its
 34 recognized employee organizations or a resolution adopted by its
 35 board of supervisors.

36 (c) No item of remuneration included in "compensation
 37 earnable" as a result of the court-approved settlement and as set
 38 forth in the resolution described above in subdivision (b) may be
 39 removed therefrom as a result of any subsequent judicial
 40 determination, except that a county of the first class and a

1 recognized employee organization may agree only through a
2 memorandum of understanding to exclude the item of
3 remuneration from “compensation earnable” or the ~~Board of~~
4 ~~Supervisors~~ *board of supervisors* may adopt a resolution excluding
5 the item of remuneration from “compensation earnable” with
6 respect to nonrepresented employees.

7 (d) This section shall not be operative in the county until the
8 board of supervisors, by resolution adopted by a majority vote,
9 makes the provisions of this section applicable in the county.

10 SEC. 115. Section 31491.1 of the Government Code is
11 amended to read:

12 31491.1. (a) Notwithstanding Section 31491, any retired
13 member receiving a retirement pension may present evidence in
14 the form required by the board of the retired member’s actual
15 primary insurance amount. For the purposes of this section, the
16 actual primary insurance amount shall be the amount being paid
17 under the federal system. Following receipt of that evidence, the
18 board shall adjust the retired member’s pension to equal the
19 amount of the pension to which he or she would have been entitled
20 on that date had the estimated primary insurance amount equaled
21 the actual insurance amount.

22 (b) The adjustment calculated in subdivision (a) shall be
23 applied to the retired member’s pension beginning in the month
24 upon which the retired member presents evidence required by the
25 board.

26 (c) This section shall not be operative in any county until ~~such~~
27 ~~time as~~ the board of supervisors ~~shall~~, by resolution adopted by
28 majority vote, ~~make~~ *makes* this section applicable.

29 SEC. 116. Section 31491.2 of the Government Code is
30 amended to read:

31 31491.2. (a) Notwithstanding Section 31491, any retired
32 member receiving a retirement pension may present evidence in
33 the form required by the board of the retired member’s federal
34 estimated primary insurance amount provided that the retired
35 member is not receiving a federal primary insurance amount. For
36 the purposes of this section, the federal estimated primary
37 insurance amount shall be the amount payable under the federal
38 system as of the retired member’s normal federal retirement age.
39 Should the federal estimated primary insurance amount equal
40 zero, the retired member shall not have his or her pension benefit

1 reduced for an estimated primary insurance amount as required in
2 subdivision (e) of Section 31491.

3 (b) Following receipt of that evidence, the board shall adjust
4 the retired member's pension to equal the amount of the pension
5 to which he or she would have been entitled on that date had the
6 estimated primary insurance amount calculated in Section 31491
7 equaled zero.

8 (c) The adjustment calculated in subdivision (a) shall be
9 applied to the retired member's pension beginning in the month
10 upon which the retired member presents evidence required by the
11 board.

12 (d) Notwithstanding subdivision (a), upon attaining federal
13 retirement age, the retired member shall submit ~~such~~ any evidence
14 as *may be* required by the board of the retired members' federal
15 estimated or actual primary insurance amount. Following receipt
16 of that evidence, the board shall adjust the retired member's
17 pension in accordance with subdivision (j) of Section 31491.

18 (e) This section shall not be operative in any county until ~~such~~
19 ~~time as~~ the board of supervisors ~~shall~~, by resolution adopted by
20 majority vote, ~~make~~ makes this section applicable.

21 SEC. 117. Section 31676.17 of the Government Code is
22 amended to read:

23 31676.17. This section may be made applicable in any county
24 on the first day of the month after the board of supervisors of the
25 county adopts, by majority vote, a resolution providing that this
26 section shall become applicable in the county. Notwithstanding
27 any other provisions of this chapter, the current service pension or
28 the current service pension combined with the prior service
29 pension is an additional pension for members purchased by the
30 contributions of the county or district sufficient, when added to the
31 service retirement annuity, to equal the fraction of one-fiftieth of
32 the member's final compensation set forth opposite the member's
33 age at retirement, taken to the preceding completed quarter year,
34 in the following table multiplied by the number of years of current
35 service or years of current and prior service with which the
36 member is entitled to be credited at retirement, but in no event shall
37 the total retirement allowance exceed the member's final
38 compensation-:

1	Age at Retirement	Fraction
2		
3	50	1.0000
4	50 ¹ / ₄	1.0125
5	50 ¹ / ₂	1.0250
6	50 ³ / ₄	1.0375
7	51	1.0500
8	51 ¹ / ₄	1.0625
9	51 ¹ / ₂	1.0750
10	51 ³ / ₄	1.0875
11	52	1.1000
12	52 ¹ / ₄	1.1125
13	52 ¹ / ₂	1.1250
14	52 ³ / ₄	1.1375
15	53	1.1500
16	53 ¹ / ₄	1.1625
17	53 ¹ / ₂	1.1750
18	53 ³ / ₄	1.1875
19	54	1.2000
20	54 ¹ / ₄	1.2125
21	54 ¹ / ₂	1.2250
22	54 ³ / ₄	1.2375
23	55	1.2500
24	55 ¹ / ₄	1.2625
25	55 ¹ / ₂	1.2750
26	55 ³ / ₄	1.2875
27	56	1.3000
28	56 ¹ / ₄	1.3125
29	56 ¹ / ₂	1.3250
30	56 ³ / ₄	1.3375
31	57	1.3500
32	57 ¹ / ₄	1.3625
33	57 ¹ / ₂	1.3750
34	57 ³ / ₄	1.3875
35	58	1.4000
36	58 ¹ / ₄	1.4125
37	58 ¹ / ₂	1.4250
38	58 ³ / ₄	1.4375
39	59	1.4500



1	59 ¹ / ₄	1.4625
2	59 ¹ / ₂	1.4750
3	59 ³ / ₄	1.4875
4	60 and over	1.5000

5

6 In any county operating under this section any limitations in any
7 provisions of this chapter upon the amount of compensation used
8 for computing rates of contributions shall be disregarded.

9 Wherever in this chapter reference is made to survivorship
10 benefits and rights under Section 31676.1, the same shall apply to
11 this section.

12 This section shall apply to members employed by the county on
13 or after the date this section becomes *operative* in the county.

14 SEC. 118. Section 31676.19 of the Government Code is
15 amended to read:

16 31676.19. This section may be made applicable in any county
17 on the first day of the month after the board of supervisors of the
18 county adopts, by majority vote, a resolution providing that this
19 section shall become applicable in the county. Notwithstanding
20 any other provisions of this chapter the current service pension or
21 the current service pension combined with the prior service
22 pension is an additional pension for members purchased by the
23 contributions of the county or district sufficient, when added to the
24 service retirement annuity, to equal the fraction of one-fiftieth of
25 the member's final compensation set forth opposite the member's
26 age at retirement, taken to the preceding completed quarter year,
27 in the following table multiplied by the number of years of current
28 service or years of current and prior service with which the
29 member is entitled to be credited at retirement, but in no event shall
30 the total retirement allowance exceed the member's final
31 compensation.:

32

33 Age of at

34 Retirement

Fraction

35 50 1.0000

36 50 ¹/₄ 1.017537 50 ¹/₂ 1.035038 50 ³/₄ 1.0525

39 51 1.0700

40 51 ¹/₄ 1.0875

1	51 ¹ / ₂	1.1050
2	51 ³ / ₄	1.1225
3	52	1.1400
4	52 ¹ / ₄	1.1575
5	52 ¹ / ₂	1.1750
6	52 ³ / ₄	1.1925
7	53	1.2100
8	53 ¹ / ₄	1.2275
9	53 ¹ / ₂	1.2450
10	53 ³ / ₄	1.2625
11	54	1.2800
12	54 ¹ / ₄	1.2975
13	54 ¹ / ₂	1.3150
14	54 ³ / ₄	1.3325
15	55 and over	1.3500

16

17 In any county operating under this section any limitations in any
18 provisions of this chapter upon the amount of compensation used
19 for computing rates of contributions shall be disregarded.

20 Wherever in this chapter reference is made to survivorship
21 benefits and rights under Section 31676.1, the same shall apply to
22 this section.

23 This section shall apply to members employed by the county on
24 or after the date this section becomes operative in the county.

25 SEC. 119. Section 31966 of the Government Code is
26 amended to read:

27 31966. The board shall invest and reinvest the funds of the
28 system, and may from time to time sell any securities held by it and
29 invest and reinvest the proceeds therefrom and all unappropriated
30 income of the funds. All funds received by it not required for
31 current disbursements shall be invested only in:

32 (a) Securities that are legal for savings bank investments or ~~that~~
33 ~~have been certified as legal investments for savings banks pursuant~~
34 ~~to Division 10 (commencing with Section 20000) of the Water~~
35 ~~Code, or any bonds which, pursuant to the statutes or laws~~
36 ~~providing for the issuance of those bonds are entitled to the same~~
37 ~~force or value or use as bonds issued by any municipality, or any~~
38 ~~bonds issued pursuant to those acts, statutes or laws of this state~~
39 ~~wherein the law specifically states by reference or otherwise that~~
40 ~~the bonds shall be legal investments for either savings banks,~~



1 insurance companies, all trust funds, state school funds and any
2 funds that may be invested in bonds of cities, counties, cities and
3 counties, school districts, or municipalities in the state, or any
4 bonds that have been investigated and approved by a commission
5 or board now or hereafter authorized by law to conduct that
6 investigation and give that approval and by authority of which
7 those bonds are declared to be legal investments for insurers.

8 (b) Obligations issued pursuant to Title IV of the National
9 Housing Act, approved June 27, 1934.

10 (c) Shares, share accounts, or investment certificates of any
11 savings and loan association that has the protection provided by
12 Title IV of the National Housing Act, approved June 27, 1934, to
13 the extent of that insurance protection.

14 (d) Deposits at interest in any state or national bank doing
15 business with the county pursuant to the law authorizing and
16 controlling the deposit of public funds in banks.

17 (e) Shares, share accounts, or certificates of funds of a credit
18 union that has the protection provided by the National Credit
19 Union Share Insurance Fund or other private insurance or guaranty
20 of share accounts that is acceptable to the Commissioner of
21 Financial Institutions.

22 SEC. 120. Section 32271 of the Government Code is
23 amended to read:

24 32271. The board shall invest and reinvest the funds of the
25 system, and may from time to time sell and invest and reinvest the
26 proceeds of any securities held by it and invest and reinvest all
27 unappropriated income of the funds. All funds received by it not
28 required for current disbursements shall be invested only in:

29 (a) Securities that are legal for savings bank investments or ~~that~~
30 ~~have been certified as legal investments for savings banks pursuant~~
31 ~~to Division 10 (commencing with Section 20000) of the Water~~
32 ~~Code, or any bonds which, pursuant to the statutes or laws~~
33 ~~providing for the issuance of those bonds are entitled to the same~~
34 ~~force or value or use as bonds issued by any municipality, or any~~
35 ~~bonds issued pursuant to those acts, statutes or laws of this state~~
36 ~~wherein that law specifically states by reference or otherwise that~~
37 ~~the bonds shall be legal investments for either savings banks,~~
38 insurance companies, all trust funds, state school funds and any
39 funds that may be invested in bonds of cities, counties, cities and
40 counties, school districts, or municipalities in the state, or any

1 bonds that have been investigated and approved by a commission
2 or board now or hereafter authorized by law to conduct that
3 investigation and give that approval and by authority of which
4 those bonds are declared to be legal investments for insurers.

5 (b) Deposits at interest in any state or national bank doing
6 business with the county pursuant to law authorizing and
7 controlling the deposit of public funds in banks.

8 (c) Shares, share accounts, or certificates of funds of a credit
9 union that has the protection provided by the National Credit
10 Union Share Insurance Fund or other private insurance or guaranty
11 of share accounts that is acceptable to the Commissioner of
12 Financial Institutions.

13 SEC. 121. Section 53601 of the Government Code is
14 amended to read:

15 53601. This section shall apply to a local agency that is a city,
16 a district, or other local agency that does not pool money in
17 deposits or investments with other local agencies, other than local
18 agencies that have the same governing body. However, Section
19 53635 shall apply to all local agencies that pool money in deposits
20 or investments with other local agencies that have separate
21 governing bodies. The legislative body of a local agency having
22 money in a sinking fund or money in its treasury not required for
23 the immediate needs of the local agency may invest any portion of
24 the money that it deems wise or expedient in those investments set
25 forth below. A local agency purchasing or obtaining any securities
26 prescribed in this section, in a negotiable, bearer, registered, or
27 nonregistered format, shall require delivery of the securities to the
28 local agency, including those purchased for the agency by
29 financial advisers, consultants, or managers using the agency's
30 funds, by book entry, physical delivery, or by third-party custodial
31 agreement. The transfer of securities to the counterparty bank's
32 customer book entry account may be used for book entry delivery.

33 For purposes of this section, "counterparty" means the other
34 party to the transaction. A counterparty bank's trust department or
35 separate safekeeping department may be used for the physical
36 delivery of the security if the security is held in the name of the
37 local agency. Where this section specifies a percentage limitation
38 for a particular category of investment, that percentage is
39 applicable only at the date of purchase. Where this section does not
40 specify a limitation on the term or remaining maturity at the time

1 of the investment, no investment shall be made in any security,
2 other than a security underlying a repurchase or reverse repurchase
3 agreement or securities lending agreement authorized by this
4 section, that at the time of the investment has a term remaining to
5 maturity in excess of five years, unless the legislative body has
6 granted express authority to make that investment either
7 specifically or as a part of an investment program approved by the
8 legislative body no less than three months prior to the investment:

9 (a) Bonds issued by the local agency, including bonds payable
10 solely out of the revenues from a revenue-producing property
11 owned, controlled, or operated by the local agency or by a
12 department, board, agency, or authority of the local agency.

13 (b) United States Treasury notes, bonds, bills, or certificates of
14 indebtedness, or those for which the faith and credit of the United
15 States are pledged for the payment of principal and interest.

16 (c) Registered state warrants or treasury notes or bonds of this
17 state, including bonds payable solely out of the revenues from a
18 revenue-producing property owned, controlled, or operated by the
19 state or by a department, board, agency, or authority of the state.

20 (d) Bonds, notes, warrants, or other evidences of indebtedness
21 of any local agency within this state, including bonds payable
22 solely out of the revenues from a revenue-producing property
23 owned, controlled, or operated by the local agency, or by a
24 department, board, agency, or authority of the local agency.

25 (e) Federal agency or United States government-sponsored
26 enterprise obligations, participations, or other instruments,
27 including those issued by or fully guaranteed as to principal and
28 interest by federal agencies or United States
29 government-sponsored enterprises.

30 (f) Bankers acceptances otherwise known as bills of exchange
31 or time drafts that are drawn on and accepted by a commercial
32 bank. Purchases of bankers acceptances may not exceed 180 days
33 maturity or 40 percent of the agency's money that may be invested
34 pursuant to this section. However, no more than 30 percent of the
35 agency's money may be invested in the bankers acceptances of any
36 one commercial bank pursuant to this section.

37 This subdivision does not preclude a municipal utility district
38 from investing any money in its treasury in any manner authorized
39 by the Municipal Utility District Act (Division 6 (commencing
40 with Section 11501) of the Public Utilities Code).

1 (g) Commercial paper of “prime” quality of the highest
2 ranking or of the highest letter and number rating as provided for
3 by Moody’s Investors Service, Inc. (Moody’s), Standard and
4 Poor’s (S&P), or Fitch Financial Services, Inc. (Fitch). The
5 corporation that issues the commercial paper shall be organized
6 and operating within the United States, shall have total assets in
7 excess of five hundred million dollars (\$500,000,000), and shall
8 issue debt, other than commercial paper, if any, that is rated “A”
9 or higher by Moody’s, S&P, or Fitch. Eligible commercial paper
10 shall have a maximum maturity of 270 days or less. Local
11 agencies, other than counties or a city and county, may invest no
12 more than 25 percent of their money in eligible commercial paper.
13 Local agencies, other than counties or a city and county, may
14 purchase no more than 10 percent of the outstanding commercial
15 paper of any single corporate issue. Counties or a city and county
16 may invest in commercial paper pursuant to the concentration
17 limits in subdivision (a) of Section 53635.

18 (h) Negotiable certificates of deposit issued by a nationally or
19 state-chartered bank, a savings association or a federal association
20 (as defined by Section 5102 of the Financial Code), a state or
21 federal credit union, or by a state-licensed branch of a foreign
22 bank. Purchases of negotiable certificates of deposit may not
23 exceed 30 percent of the agency’s money which may be invested
24 pursuant to this section. For purposes of this section, negotiable
25 certificates of deposit do not come within Article 2 (commencing
26 with Section 53630), except that the amount so invested shall be
27 subject to the limitations of Section 53638. The legislative body
28 of a local agency and the treasurer or other official of the local
29 agency having legal custody of the money are prohibited from
30 investing local agency funds, or funds in the custody of the local
31 agency, in negotiable certificates of deposit issued by a state or
32 federal credit union if a member of the legislative body of the local
33 agency, or any person with investment decision making authority
34 in the administrative office manager’s office, budget office,
35 auditor-controller’s office, or treasurer’s office of the local agency
36 also serves on the board of directors, or any committee appointed
37 by the board of directors, or the credit committee or the
38 supervisory committee of the state or federal credit union issuing
39 the negotiable certificates of deposit.



(i) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a

1 security using a reverse repurchase agreement or securities lending
2 agreement and the final maturity date of the same security.

3 (4) (A) Investments in reverse repurchase agreements,
4 securities lending agreements, or similar investments in which the
5 local agency sells securities prior to purchase with a simultaneous
6 agreement to repurchase the security, may only be made upon prior
7 approval of the governing body of the local agency and shall only
8 be made with primary dealers of the Federal Reserve Bank of New
9 York or with a nationally or state-chartered bank that has or has had
10 a significant banking relationship with a local agency.

11 (B) For purposes of this chapter, “significant banking
12 relationship” means any of the following activities of a bank:

13 (i) Involvement in the creation, sale, purchase, or retirement of
14 a local agency’s bonds, warrants, notes, or other evidence of
15 indebtedness.

16 (ii) Financing of a local agency’s activities.

17 (iii) Acceptance of a local agency’s securities or funds as
18 deposits.

19 (5) (A) “Repurchase agreement” means a purchase of
20 securities by the local agency pursuant to an agreement by which
21 the counterparty seller will repurchase the securities on or before
22 a specified date and for a specified amount and the counterparty
23 will deliver the underlying securities to the local agency by book
24 entry, physical delivery, or by third-party custodial agreement.
25 The transfer of underlying securities to the counterparty bank’s
26 customer book-entry account may be used for book-entry delivery.

27 (B) “Securities,” for purpose of repurchase under this
28 subdivision, means securities of the same issuer, description, issue
29 date, and maturity.

30 (C) “Reverse repurchase agreement” means a sale of securities
31 by the local agency pursuant to an agreement by which the local
32 agency will repurchase the securities on or before a specified date
33 and includes other comparable agreements.

34 (D) “Securities lending agreement” means an agreement
35 under which a local agency agrees to transfer securities to a
36 borrower who, in turn, agrees to provide collateral to the local
37 agency. During the term of the agreement, both the securities and
38 the collateral are held by a third party. At the conclusion of the
39 agreement, the securities are transferred back to the local agency
40 in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or ~~subdivisions~~ *subdivision* (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

1 (A) Attained the highest ranking or the highest letter and
2 numerical rating provided by not less than two nationally
3 recognized statistical rating organizations.

4 (B) Retained an investment adviser registered or exempt from
5 registration with the Securities and Exchange Commission with
6 not less than five years' experience investing in the securities and
7 obligations authorized by subdivisions (a) to (j), inclusive, or
8 ~~subdivisions~~ *subdivision* (m) or (n) and with assets under
9 management in excess of five hundred million dollars
10 (\$500,000,000).

11 (4) If investment is in shares issued pursuant to paragraph (2),
12 the company shall have met either of the following criteria:

13 (A) Attained the highest ranking or the highest letter and
14 numerical rating provided by not less than two nationally
15 recognized statistical rating organizations.

16 (B) Retained an investment adviser registered or exempt from
17 registration with the Securities and Exchange Commission with
18 not less than five years' experience managing money market
19 mutual funds with assets under management in excess of five
20 hundred million dollars (\$500,000,000).

21 (5) The purchase price of shares of beneficial interest
22 purchased pursuant to this subdivision shall not include any
23 commission that the companies may charge and shall not exceed
24 20 percent of the agency's surplus money that may be invested
25 pursuant to this section. However, no more than 10 percent of the
26 agency's surplus funds may be invested in shares of beneficial
27 interest of any one mutual fund pursuant to paragraph (1).

28 (I) Moneys held by a trustee or fiscal agent and pledged to the
29 payment or security of bonds or other indebtedness, or obligations
30 under a lease, installment sale, or other agreement of a local
31 agency, or certificates of participation in those bonds,
32 indebtedness, or lease installment sale, or other agreements, may
33 be invested in accordance with the statutory provisions governing
34 the issuance of those bonds, indebtedness, or lease installment
35 sale, or other agreement, or to the extent not inconsistent therewith
36 or if there are no specific statutory provisions, in accordance with
37 the ordinance, resolution, indenture, or agreement of the local
38 agency providing for the issuance.

39 (m) Notes, bonds, or other obligations that are at all times
40 secured by a valid first priority security interest in securities of the

1 types listed by Section 53651 as eligible securities for the purpose
2 of securing local agency deposits having a market value at least
3 equal to that required by Section 53652 for the purpose of securing
4 local agency deposits. The securities serving as collateral shall be
5 placed by delivery or book entry into the custody of a trust
6 company or the trust department of a bank which is not affiliated
7 with the issuer of the secured obligation, and the security interest
8 shall be perfected in accordance with the requirements of the
9 Uniform Commercial Code or federal regulations applicable to the
10 types of securities in which the security interest is granted.

11 (n) Any mortgage passthrough security, collateralized
12 mortgage obligation, mortgage-backed or other pay-through
13 bond, equipment lease-backed certificate, consumer receivable
14 passthrough certificate, or consumer receivable-backed bond of a
15 maximum of five years maturity. Securities eligible for investment
16 under this subdivision shall be issued by an issuer having an “A”
17 or higher rating for the issuer’s debt as provided by a nationally
18 recognized rating service and rated in a rating category of “AA”
19 or its equivalent or better by a nationally recognized rating service.
20 Purchase of securities authorized by this subdivision may not
21 exceed 20 percent of the agency’s surplus money that may be
22 invested pursuant to this section.

23 SEC. 122. Section 56334 of the Government Code is
24 amended to read:

25 56334. The term of office of each member shall be four years
26 and until the appointment and qualification of his or her successor.
27 Upon enlargement of the commission by two members, as
28 provided in Section 56332, the new members first appointed to
29 represent independent special districts shall classify themselves by
30 lot so that the expiration date of the term of office of one new
31 member coincides with the existing member who holds the office
32 represented by the original two-year term on the commission and
33 *the term of office* of the other new member coincides with the
34 existing member who holds the office represented by the original
35 four-year term on the commission. The body which originally
36 appointed a member whose term has expired shall appoint his or
37 her successor for a full term of four years. Any member may be
38 removed at any time and without cause by the body appointing that
39 member. The expiration date of the term of office of each member
40 shall be the first Monday in May in the year in which the term of

1 the member expires, unless procedures adopted by the commission
2 specify an alternate date to apply uniformly to all members.
3 However, the length of a term of office shall not be extended more
4 than once. Any vacancy in the membership of the commission
5 shall be filled for the unexpired term by appointment by the body
6 which originally appointed the member whose office has become
7 vacant.

8 The chairperson of the commission shall be selected by the
9 members of the commission.

10 Commission members and alternates shall be reimbursed for the
11 actual amount of their reasonable and necessary expenses incurred
12 in attending meetings and in performing the duties of their office.
13 The commission may authorize payment of a per diem to
14 commission members and alternates for each day while they are
15 in attendance at meetings of the commission.

16 SEC. 123. A heading is added as Article 2.11 (commencing
17 with Section 65892.13) of Chapter 4 of Division 1 of Title 7 of the
18 Government Code, to read:

19
20 Article 2.11. Wind Energy
21

22 SEC. 124. Section 65892.13 of the Government Code is
23 amended to read:

24 65892.13. (a) The Legislature finds and declares all of the
25 following:

26 (1) California has a shortage of reliable electricity supply,
27 which has led the Governor to proclaim a state of emergency and
28 to issue numerous executive orders to lessen, and mitigate the
29 effects of, the shortage. The executive orders, among other things,
30 expedite and shorten the processing of applications for existing
31 and new powerplants, establish an emergency siting process for
32 peaking and renewable powerplants, and relax existing air
33 pollutant emission requirements in order to allow power
34 generation facilities to continue generating much needed
35 electricity.

36 (2) Wind energy is an abundant, renewable, and nonpolluting
37 energy resource. When converted to electricity, it reduces our
38 dependence on nonrenewable energy resources and reduces air
39 and water pollution that result from conventional sources.
40 Distributed small wind energy systems also enhance the reliability

1 and power quality of the power grid, reduce peak power demands,
2 increase in-state electricity generation, diversify the state's energy
3 supply portfolio, and make the electricity supply market more
4 competitive by promoting consumer choice.

5 (3) In 2000, the Legislature and Governor recognized the need
6 to promote all feasible adoption of clean, renewable, and
7 distributed energy sources by enacting the Reliable Electric
8 Service Investments Act (Article 15 (commencing with Section
9 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
10 Code). As set forth in Section 399.6 of the Public Utilities Code,
11 the stated objectives of the act include to "increase, in the near
12 term, the quantity of California's electricity generated by in-state
13 renewable energy resources, while protecting system reliability,
14 fostering resource diversity, and obtaining the greatest
15 environmental benefits for California residents."

16 (4) Small wind energy systems, designed for onsite home,
17 farm, and small commercial use, are recognized by the Legislature
18 and the State Energy Resources Conservation and Development
19 Commission as an excellent technology to help achieve the goals
20 of increased in-state electricity generation, reduced demand on the
21 state electric grid, increased consumer energy independence, and
22 nonpolluting electricity generation. In June 2001, the commission
23 adopted a Renewable Investment Plan that includes one hundred
24 one million two hundred fifty thousand dollars (\$101,250,000)
25 over the next five years, in the form of a 50 percent buydown
26 incentive for the purchasers of "emerging renewable
27 technologies," including small wind energy systems.

28 (5) In light of the state's electricity supply shortage and its
29 existing program to encourage the adoption of small wind energy
30 systems, it is the intent of the Legislature that any ordinances
31 regulating small wind energy systems adopted by local agencies
32 have the effect of providing for the installation and use of small
33 wind energy systems and that provisions in these ordinances
34 relating to matters including, but not limited to, parcel size, tower
35 height, noise, notice, and setback requirements do not
36 unreasonably restrict the ability of homeowners, farms, and small
37 businesses to install small wind energy systems in zones in which
38 they are authorized by local ordinance. It is the policy of the state
39 to promote and encourage the use of small wind energy systems
40 and to limit obstacles to their use.



1 (b) The implementation of consistent statewide standards to
2 achieve the timely and cost-effective installation of small wind
3 energy systems is not a municipal affair, as that term is used in
4 Section 5 of Article XI of the California Constitution, but is instead
5 a matter of statewide concern. It is the intent of the Legislature that
6 this section apply to all local agencies, including, but not limited
7 to, charter cities, charter counties, and charter cities and counties.

8 (c) The following definitions govern this section:

9 (1) “Small wind energy system” means a wind energy
10 conversion system consisting of a wind turbine, a tower, and
11 associated control or conversion electronics, which has a rated
12 capacity that does not exceed the allowable rated capacity under
13 the Emerging Renewables Fund of the Renewables Investment
14 Plan administered by the California Energy Commission and
15 which will be used primarily to reduce onsite consumption of
16 utility power.

17 (2) “Tower height” means the height above grade of the fixed
18 portion of the tower, excluding the wind turbine.

19 (d) Any local agency may, by ordinance, provide for the
20 installation of small wind energy systems in the jurisdiction
21 outside an “urbanized area,” as defined in paragraph (2) of
22 subdivision (b) of Section 21080.7 of the Public Resources Code
23 pursuant to this section. The local agency may establish a process
24 for the issuance of a conditional use permit for small wind energy
25 systems.

26 (1) The ordinance may impose conditions on the installation of
27 small wind energy systems that include, but are not limited to,
28 notice, tower height, setback, view protection, aesthetics, aviation,
29 and design safety requirements. However, the ordinance shall not
30 require conditions on notice, tower height, setbacks, noise level,
31 turbine approval, tower drawings, and engineering analysis, or
32 line drawings that are more restrictive than the following:

33 (A) Notice of an application for installation of a small wind
34 energy system shall be provided to property owners within 300
35 feet of the property on which the system is to be located.

36 (B) Tower heights of not more than 65 feet shall be allowed on
37 parcels between one and five acres and tower heights of not more
38 than 80 feet shall be allowed on parcels of five acres or more,
39 provided that the application includes evidence that the proposed

1 height does not exceed the height recommended by the
2 manufacturer or distributor of the system.

3 (C) Setbacks for the system tower shall be no farther from the
4 property line than the height of the system, provided that it also
5 complies with any applicable fire setback requirements pursuant
6 to Section 4290 of the Public Resources Code.

7 (D) Decibel levels for the system shall not exceed the lesser of
8 60 decibels (dBA), or any existing maximum noise levels applied
9 pursuant to the noise element of a general plan for the applicable
10 zoning classification in a jurisdiction, as measured at the closest
11 neighboring inhabited dwelling, except during short-term events
12 such as utility outages and severe wind storms.

13 (E) The system's turbine must have been approved by the
14 California Energy Commission as qualifying under the Emerging
15 Renewables Fund of the commission's Renewables Investment
16 Plan or certified by a national program recognized and approved
17 by the Energy Commission.

18 (F) The application shall include standard drawings and an
19 engineering analysis of the system's tower, showing compliance
20 with the Uniform Building Code or the California Building
21 Standards Code and certification by a professional mechanical,
22 structural, or civil engineer licensed by this state. However, a wet
23 stamp shall not be required, provided that the application
24 demonstrates that the system is designed to meet the most stringent
25 wind requirements (Uniform Building Code wind exposure D),
26 the requirements for the worst seismic class (Seismic 4), and the
27 weakest soil class, with a soil strength of not more than 1,000
28 pounds per square foot, or other relevant conditions normally
29 required by a local agency.

30 (G) The system shall comply with all applicable Federal
31 Aviation Administration requirements, including Subpart B
32 (commencing with Section 77.11) of Part 77 of Title 14 of the
33 Code of Federal Regulations regarding installations close to
34 airports, and the State Aeronautics Act (Part 1 (commencing with
35 Section 21001) of Division 9 of the Public Utilities Code).

36 (H) The application shall include a line drawing of the
37 electrical components of the system in sufficient detail to allow for
38 a determination that the manner of installation conforms to the
39 National Electric Code.



(2) The ordinance may require the applicant to provide information demonstrating that the system will be used primarily to reduce onsite consumption of electricity. The ordinance may also require the application to include evidence, unless the applicant does not plan to connect the system to the electricity grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(3) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, ~~Division~~ *(Division 20* (commencing with Section 30000) of the Public Resources ~~Code~~ *Code)*.

(B) The California Coastal Commission, pursuant to the California Coastal Act, ~~Division~~ *(Division 20* (commencing with Section 30000) of the Public Resources ~~Code~~ *Code)*.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, ~~Title~~ *(Title 7.4* (commencing with Section 66800) of the Government ~~Code~~ *Code)*.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, ~~Title~~ *(Title 7.2* (commencing with Section 66600) of the Government ~~Code~~ *Code)*.

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, ~~Chapter~~ *(Chapter 7.5* (commencing with Section 2621) of Division 2 of the Public Resources ~~Code~~ *Code)*.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

1 (I) The terms of an open-space easement entered into pursuant
2 to the Open-space Easement Act of 1974, ~~Chapter~~ (*Chapter* 6.6
3 (commencing with Section 51070) of Division 1 of Title 5 of the
4 Government ~~Code~~ *Code*).

5 (J) The terms of an agricultural conservation easement entered
6 into pursuant to the California Farmland Conservancy Program
7 Act, ~~Division~~ (*Division* 10.2 (commencing with Section 10200)
8 of the Public Resources ~~Code~~ *Code*).

9 (K) The terms of a contract entered into pursuant to the
10 Williamson Act, ~~Chapter~~ (*Chapter* 7 (commencing with Section
11 51200) of Division 1 of Title 5 of the Government ~~Code~~ *Code*).

12 (L) The listing of the proposed site in the National Register of
13 Historic Places or the California Register of Historical Resources
14 pursuant to Section 5024.1 of the Public Resources Code.

15 (4) In the event a small wind energy system is proposed to be
16 sited in an agricultural area that may have aircraft operating at low
17 altitudes, the local agency shall take reasonable steps, concurrent
18 with other notices issued pursuant to this subdivision, to notify pest
19 control aircraft pilots registered to operate in the county pursuant
20 to Section 11921 of the Food and Agriculture Code.

21 (5) Notwithstanding the requirements of paragraph (1), a local
22 agency may, if it deems it necessary due to circumstances specific
23 to the proposed installation, provide notice by placing a display
24 advertisement of at least one-eighth page in at least one newspaper
25 of general circulation within the local agency in which the
26 installation is proposed.

27 (6) Nothing in this section shall be construed to alter or affect
28 existing law regarding the authority of local agencies to review an
29 application.

30 (e) Notwithstanding subdivision (f), any local agency that has
31 not adopted an ordinance in accordance with subdivision (d) by
32 July 1, 2002, may adopt such ordinance at a later date, but any
33 applications that are submitted between July 1, 2002, and the
34 adopted date of the ordinance must be approved pursuant to
35 subdivision (f).

36 (f) Any local agency which has not adopted an ordinance
37 pursuant to subdivision (d) on or before July 1, 2002, shall approve
38 applications for a small wind energy systems by right if all of the
39 following conditions are met:



1 (1) The size of the parcel where the system is located is at least
2 one acre and is outside an “urbanized area,” as defined in
3 paragraph (2) of subdivision (b) of Section 21080.7 of the Public
4 Resources Code.

5 (2) The tower height on parcels that are less than five acres does
6 not exceed 80 feet.

7 (3) No part of the system, including guy wire anchors, extends
8 closer than 30 feet to the property boundary, provided that it also
9 complies with any applicable fire setback requirements pursuant
10 to Section 4290 of the Public Resources Code.

11 (4) The system does not exceed 60 decibels (dBA), as measured
12 at the closest neighboring inhabited dwelling, except during
13 short-term events such as utility outages and severe wind storms.

14 (5) The system’s turbine has been approved by the State Energy
15 Resources Conservation and Development Commission as
16 qualifying under the Emerging Renewables Fund of the
17 commission’s Renewables Investment Plan or certified by a
18 national program recognized and approved by the Energy
19 Commission.

20 (6) The application includes standard drawings and an
21 engineering analysis of the tower, showing compliance with the
22 Uniform Building Code or the California Building Standards Code
23 and certification by a licensed professional engineer. A wet stamp
24 is not required if the application demonstrates that the system is
25 designed to meet the most stringent wind requirements (Uniform
26 Building Code wind exposure D), the requirements for the worst
27 seismic class (Seismic 4), and the weakest soil class, with a soil
28 strength of not more than 1,000 pounds per square foot, or other
29 relevant conditions normally required by a local agency.

30 (7) The system complies with all applicable Federal Aviation
31 Administration requirements, including any necessary approvals
32 for installations close to airports, and the requirements of the State
33 Aeronautics Act (Part 1 (commencing with Section 21001) of
34 Division 9 of the Public Utilities Code).

35 (8) The application includes a line drawing of the electrical
36 components of the system in sufficient detail to allow for a
37 determination that the manner of installation conforms to the
38 National Electric Code.

39 (9) Unless the applicant does not plan to connect the system to
40 the electricity grid, the application includes evidence, that the



1 electric utility service provider that serves the proposed site has
2 been informed of the applicant's intent to install an interconnected
3 customer-owned electricity generator.

4 (10) A small wind energy system shall not be allowed where
5 otherwise prohibited by any of the following:

6 (A) A local coastal program and any implementing regulations
7 adopted pursuant to the California Coastal Act, ~~Division~~ (*Division*
8 20 (commencing with Section 30000) of the Public Resources
9 ~~Code~~ *Code*).

10 (B) The California Coastal Commission, pursuant to the
11 California Coastal Act, ~~Division~~ (*Division* 20 (commencing with
12 Section 30000) of the Public Resources ~~Code~~ *Code*).

13 (C) The regional plan and any implementing regulations
14 adopted by the Tahoe Regional Planning Agency pursuant to the
15 Tahoe Regional Planning Compact, ~~Title~~ (*Title* 7.4 (commencing
16 with Section 66800) of the Government ~~Code~~ *Code*).

17 (D) The San Francisco Bay Plan and any implementing
18 regulations adopted by the San Francisco Bay Conservation and
19 Development Commission pursuant to the McAteer-Petris Act,
20 ~~Title~~ (*Title* 7.2 (commencing with Section 66600) of the
21 Government ~~Code~~ *Code*).

22 (E) A comprehensive land use plan and any implementing
23 regulations adopted by an airport land use commission pursuant to
24 Article 3.5 (commencing with Section 21670) of Chapter 4 of
25 Division 9 of Part 1 of the Public Utilities Code.

26 (F) The Alquist-Priolo Earthquake Fault Zoning Act, ~~Chapter~~
27 (*Chapter* 7.5 (commencing with Section 2621) of Division 2 of the
28 Public Resources ~~Code~~ *Code*).

29 (G) A local agency to protect the scenic appearance of the
30 scenic highway corridor designated pursuant to Article 2.5
31 (commencing with Section 260) of Chapter 2 of Division 1 of the
32 Streets and Highways Code.

33 (H) The terms of a conservation easement entered into pursuant
34 to Chapter 4 (commencing with Section 815) of Division 2 of Part
35 2 of the Civil Code.

36 (I) The terms of an open-space easement entered into pursuant
37 to the Open-space Easement Act of 1974, ~~Chapter~~ (*Chapter* 6.6
38 (commencing with Section 51070) of Division 1 of Title 5 of the
39 Government ~~Code~~ *Code*).

1 (J) The terms of an agricultural conservation easement entered
2 into pursuant to the California Farmland Conservancy Program
3 Act, ~~Division~~ (*Division* 10.2 (commencing with Section 10200)
4 of the Public Resources ~~Code~~ *Code*).

5 (K) The terms of a contract entered into pursuant to the
6 Williamson Act, ~~Chapter~~ (*Chapter* 7 (commencing with Section
7 51200) of Division 1 of Title 5 of the Government ~~Code~~ *Code*).

8 (L) On a site listed in the National Register of Historic Places
9 or the California Register of Historical Resources pursuant to
10 Section 5024.1 of the Public Resources Code.

11 (11) In the event that a proposed site for a small wind energy
12 system is in an agricultural area that may have aircraft operating
13 at low altitudes, the local agency shall take reasonable steps,
14 concurrent with other notices issued pursuant to this subdivision,
15 to notify pest control aircraft pilots registered to operate in the
16 county pursuant to Section 11921 of the Food and Agriculture
17 Code.

18 (12) No other local ordinance, policy, or regulation shall be the
19 basis for a local agency to deny the siting and operation of a small
20 wind energy system under this subdivision.

21 (13) No changes in the general plan shall be required to
22 implement this subdivision. Any local agency, when amending its
23 zoning ordinance or general plan to incorporate the policies,
24 procedures, or other provisions applicable to the approval of small
25 wind energy systems, must do so in a manner consistent with the
26 requirements of this subdivision and the Permit Streamlining Act
27 (*Chapter* 4.5 (commencing with Section ~~65920~~ 65920)).

28 (g) This section does not limit the authority of local agencies
29 to adopt less restrictive requirements for the siting and operation
30 of small wind energy systems.

31 (h) A local agency shall review an application for a small wind
32 energy system as expeditiously as possible pursuant to the
33 timelines established in the Permit Streamlining Act (*Chapter* 4.5
34 (commencing with Section ~~65920~~ 65920)).

35 (i) Fees charged by a local agency to review an application for
36 a small wind energy system shall be determined in accordance with
37 Chapter 5 (commencing with Section 66000).

38 (j) Any requirement of notice to property owners imposed
39 pursuant to subdivision (d) shall ensure that responses to the notice
40 are filed in a timely manner.

(k) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends that date.

SEC. 125. Section 67940 of the Government Code is amended to read:

67940. (a) The Santa Cruz County Regional Transportation Commission is hereby created, as a local area transportation planning agency, and not as part of the executive branch of state government, to provide regional transportation planning and development for the area of Santa Cruz County. The commission may be known by any other name it chooses and is the legal successor to the Santa Cruz County Regional Transportation Commission, established pursuant to Section 29535, for all purposes, including those set forth in Section 67941.

(b) The governing body shall be composed of all five members of the Santa Cruz County Board of Supervisors, one member for each of the cities in the county, *appointed* by each city, and three members appointed by the Santa Cruz Metropolitan Transit District.

(c) The appointing authority, for each regular member it appoints, and the board of supervisors for each of its members, may appoint an alternate member to serve in the place of the regular member when the regular member is absent or disqualified from participating in a meeting of the governing body.

SEC. 126. Section 71639.1 of the Government Code is amended to read:

71639.1. (a) Each trial court shall adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (c) or (d). The procedure may be mediation, arbitration, or a procedure before an administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654 for review of the decision of the hearing officer in evidentiary due process hearings. The establishment of the procedure shall be subject to the obligation to meet and confer in good faith. However, nothing in this section shall prohibit a party from seeking provisional relief, such as a stay, in any case in which provisional relief would otherwise be appropriate.

(b) In a trial court with 10 or more judges, if the trial court and a recognized employee organization reach an impasse regarding

1 development of a procedure required pursuant to subdivision (a),
2 the trial court shall adopt either nonbinding arbitration or a
3 proceeding before the administrative tribunal, such as the
4 procedure established pursuant to Sections 71653 and 71654, for
5 review of the decision of the hearing officer in evidentiary due
6 process ~~or~~ hearings.

7 (c) Notwithstanding Sections 1085 and 1103 of the Code of
8 Civil Procedure requiring the issuance of a writ to an inferior
9 tribunal, and except as required pursuant to Section 5 of Article VI
10 of the California Constitution, any agreements reached pursuant
11 to negotiations held pursuant to this article are binding on the
12 parties and may be enforced by petitioning the superior court for
13 relief pursuant to Section 1085 or 1103 of the Code of Civil
14 Procedure.

15 (d) Notwithstanding Sections 1085 and 1103 of the Code of
16 Civil Procedure requiring the issuance of a writ to an inferior
17 tribunal, if a trial court, a trial court employee, or an employee
18 organization believes there has been a violation of this article, that
19 party may petition the superior court for relief.

20 (e) The Judicial Council shall adopt rules of court to implement
21 this hearing and appeal process. The rules of court shall provide
22 a mechanism for the establishment of a panel of court of appeal
23 justices who shall be qualified to hear these matters, as specified
24 in the rules of court, from which a single justice shall be assigned
25 to hear the matter in the superior court. The rules of court shall
26 provide that these matters shall be heard in the superior court and
27 the court of appeal on an expedited basis, and to the extent
28 permitted by law or rule of court, shall provide that any justice
29 assigned to hear the matter in the superior court shall not be from
30 the court of appeal district in which the action is filed, and shall
31 provide that appeals in these matters shall be heard in the court of
32 appeal district where the matter was filed.

33 (f) A complete alternative to the procedure outlined in
34 subdivisions (c), (d), and (e) may be provided for by mutual
35 agreement between a trial court and representatives of recognized
36 employee organizations.

37 (g) A court decision interpreting or applying this article shall
38 not be binding in cases or proceedings arising under Chapter 10
39 (commencing with Section 3500) of Division 4 of Title 1.

SEC. 127. Section 71.7 of the Harbors and Navigation Code, as added by Section 2 of Chapter 1231 of the Statutes of 1994, is repealed.

~~71.7. Notwithstanding any other provision of this chapter, Section 82, or any contract or agreement to the contrary, loan payments on the loan on behalf of Spud Point Marina in the County of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516 of Section 2.00 of the Budget Act of 1982, and administered by the department, may be renegotiated by the department and the County of Sonoma, with the advice and consent of the commission, to solve the fiscal problems involving the marina existing on the effective date of the act enacting this section during the 1994 portion of the 1993-94 Regular Session.~~

SEC. 128. Section 1276.65 of the Health and Safety Code is amended to read:

1276.65. (a) For purposes of this section, the following definitions shall apply:

(1) "Direct caregiver" means a registered nurse, as referred to in Section 2732 of the Business and Professions Code, a licensed vocational nurse, as referred to in Section 2864 of the Business and Professions Code, a psychiatric technician, as referred to in Section 4516 of the Business and Professions Code, and a certified nurse assistant, as defined in Section 1337.

(2) "Skilled nursing facility" means a skilled nursing facility as defined in subdivision (c) of Section 1250.

(b) A person employed to provide services such as food preparation, housekeeping, laundry, or maintenance services shall not provide nursing care to residents and shall not be counted in determining ratios under this section.

(c) (1) Notwithstanding any other provision of law, the State Department of Health Services shall develop regulations that become effective August 1, 2003, that establish staff-to-patient ratios for direct caregivers working in a skilled nursing facility. These ratios shall include separate licensed nurse staff-to-patient ratios in addition to the ratios established for other direct caregivers.

(2) The department, in developing staff-to-patient ratios for direct caregivers and licensed nurses required by this section, shall convert the existing requirement under Section 1276.5 of this code and Section 14110.7 of the Welfare and Institutions Code for 3.2

1 nursing hours per patient day of care and shall ensure that no less
2 care is given than is required pursuant to Section 1276.5 of this
3 code and Section 14110.7 of the Welfare and Institutions Code.
4 Further, the department shall develop the ratios in a manner that
5 minimizes additional state costs, maximizes resident access to
6 care, and takes into account the length of the shift worked. In
7 developing the regulations, the department shall develop a
8 procedure for facilities to apply for a waiver that addresses
9 individual patient needs except that in no instance shall the
10 minimum staff-to-patient ratios be less ~~that~~ *than* the 3.2 nursing
11 hours per patient day required under Section 1276.5 of this code
12 and Section 14110.7 of the Welfare and Institutions Code.

13 (d) The staffing ratios to be developed pursuant to this section
14 shall be minimum standards only. Skilled nursing facilities shall
15 employ and schedule additional staff as needed to ensure quality
16 resident care based on the needs of individual residents and to
17 ensure compliance with all relevant state and federal staffing
18 requirements.

19 (e) No later than January 1, 2006, and every five years
20 thereafter, the department shall consult with consumers, consumer
21 advocates, recognized collective bargaining agents, and providers
22 to determine the sufficiency of the staffing standards provided in
23 this section and may adopt regulations to increase the minimum
24 staffing ratios to adequate levels.

25 (f) In a manner pursuant to federal requirements, effective
26 January 1, 2003, every skilled nursing facility shall post
27 information about staffing levels that include the current number
28 of licensed and unlicensed nursing staff directly responsible for
29 resident care in the facility. This posting shall include staffing
30 requirements developed pursuant to this section.

31 (g) (1) Notwithstanding any other provision of law, the
32 department shall inspect for compliance with this section during
33 state and federal periodic inspections, including, but not limited
34 to, those inspections required under Section 1422. This inspection
35 requirement shall not limit the department's authority in other
36 circumstances to cite for violations of this section or to inspect for
37 compliance with this section.

38 (2) A violation of the regulations developed pursuant to this
39 section may constitute a class ~~"B"~~, ~~"A"~~, "B," "A," or "AA"
40 violation pursuant to the standards set forth in Section 1424.

(h) The requirements of this section are in addition to any requirement set forth in Section 1276.5 of this code and Section 14110.7 of the Welfare and Institutions Code.

(i) Initial implementation of the staffing ratio developed pursuant to requirements set forth in this section shall be contingent on an appropriation in the annual Budget Act or another statute.

(j) In implementing this section, the department may contract as necessary, on a bid or nonbid basis, for professional consulting services from nationally recognized higher education and research institutions, or other qualified individuals and entities not associated with a skilled nursing facility, with demonstrated expertise in long-term care. This subdivision establishes an accelerated process for issuing contracts pursuant to this section and contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contracts Code.

(k) This section shall not apply to facilities defined in Section 1276.9.

SEC. 129. The heading of Chapter 2.5 (commencing with Section 1399.900) of Division 2 of the Health and Safety Code is amended and renumbered to read:

CHAPTER ~~2.5~~ 2.25. DISEASE MANAGEMENT

SEC. 130. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.

(2) Allylprodine.

(3) Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha- acetylmethadol, levomethadyl acetate, or LAAM).

- 1 (4) Alphameprodine.
- 2 (5) Alphamethadol.
- 3 (6) Benzethidine.
- 4 (7) Betacetylmethadol.
- 5 (8) Betameprodine.
- 6 (9) Betamethadol.
- 7 (10) Betaprodine.
- 8 (11) Clonitazene.
- 9 (12) Dextromoramide.
- 10 (13) Diampromide.
- 11 (14) Diethylthiambutene.
- 12 (15) Difenoxin.
- 13 (16) Dimenoxadol.
- 14 (17) Dimepheptanol.
- 15 (18) Dimethylthiambutene.
- 16 (19) Dioxaphetyl butyrate.
- 17 (20) Dipipanone.
- 18 (21) Ethylmethylthiambutene.
- 19 (22) Etonitazene.
- 20 (23) Etoxidine.
- 21 (24) Furethidine.
- 22 (25) Hydroxypethidine.
- 23 (26) Ketobemidone.
- 24 (27) Levomoramide.
- 25 (28) Levophenacymorphan.
- 26 (29) Morpheridine.
- 27 (30) Noracymethadol.
- 28 (31) Norlevorphanol.
- 29 (32) Normethadone.
- 30 (33) Norpipanone.
- 31 (34) Phenadoxone.
- 32 (35) Phenampromide.
- 33 (36) Phenomorphan.
- 34 (37) Phenoperidine.
- 35 (38) Piritramide.
- 36 (39) Proheptazine.
- 37 (40) Properidine.
- 38 (41) Propiram.
- 39 (42) Racemoramide.
- 40 (43) Tilidine.



- 1 (44) Trimeperidine.
- 2 (45) Any substance which contains any quantity of
- 3 acetylfentanyl (N-[1-phenethyl-4-piperidiny] acetanilide) or a
- 4 derivative thereof.
- 5 (46) Any substance which contains any quantity of the
- 6 thiophene analog of acetylfentanyl
- 7 (N-[1-[2-(2-thienyl)ethyl]-4-piperidiny] acetanilide) or a
- 8 derivative thereof.
- 9 (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- 10 (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine
- 11 (PEPAP).
- 12 (c) Opium derivatives. Unless specifically excepted or unless
- 13 listed in another schedule, any of the following opium derivatives,
- 14 its salts, isomers, and salts of isomers whenever the existence of
- 15 those salts, isomers, and salts of isomers is possible within the
- 16 specific chemical designation:
- 17 (1) Acetorphine.
- 18 (2) Acetyldihydrocodeine.
- 19 (3) Benzylmorphine.
- 20 (4) Codeine methylbromide.
- 21 (5) Codeine-N-Oxide.
- 22 (6) Cyprenorphine.
- 23 (7) Desomorphine.
- 24 (8) Dihydromorphine.
- 25 (9) Drotebanol.
- 26 (10) Etorphine (except hydrochloride salt).
- 27 (11) Heroin.
- 28 (12) Hydromorphenol.
- 29 (13) Methyldesorphine.
- 30 (14) Methyldihydromorphine.
- 31 (15) Morphine methylbromide.
- 32 (16) Morphine methylsulfonate.
- 33 (17) Morphine-N-Oxide.
- 34 (18) Myrophine.
- 35 (19) Nicocodeine.
- 36 (20) Nicomorphine.
- 37 (21) Normorphine.
- 38 (22) Pholcodine.
- 39 (23) Thebacon.



- 1 (d) Hallucinogenic substances. Unless specifically excepted or
2 unless listed in another schedule, any material, compound,
3 mixture, or preparation, which contains any quantity of the
4 following hallucinogenic substances, or which contains any of its
5 salts, isomers, and salts of isomers whenever the existence of those
6 salts, isomers, and salts of isomers is possible within the specific
7 chemical designation (for purposes of this subdivision only, the
8 term “isomer” includes the optical, position, and geometric
9 isomers):
- 10 (1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or
11 other names:
12 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;
13 4-bromo-2,5-DMA.
- 14 (2) 2,5-dimethoxyamphetamine—Some trade or other names:
15 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.
- 16 (3) 4-methoxyamphetamine—Some trade or other names:
17 4-methoxy-alpha-methylphenethylamine,
18 paramethoxyamphetamine, PMA.
- 19 (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
- 20 (5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or
21 other names:
22 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine;
23 “DOM”; and “STP.”
- 24 (6) 3,4-methylenedioxy amphetamine.
- 25 (7) 3,4,5-trimethoxy amphetamine.
- 26 (8) Bufotenine—Some trade or other names:
27 3-(beta-dimethylaminoethyl)-5-hydroxyindole;
28 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin,
29 5-hydroxy-N,N-dimethyltryptamine; mappine.
- 30 (9) Diethyltryptamine—Some trade or other names:
31 N,N-Diethyltryptamine; DET.
- 32 (10) Dimethyltryptamine—Some trade or other names: DMT.
- 33 (11) Ibogaine—Some trade or other names: 7-Ethyl-6,6beta,
34 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
35 [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.
- 36 (12) Lysergic acid diethylamide.
- 37 (13) Marijuana.
- 38 (14) Mescaline.
- 39 (15) Peyote—Meaning all parts of the plant presently classified
40 botanically as *Lophophora williamsii* Lemaire, whether growing

1 or not, the seeds thereof, any extract from any part of ~~such the~~
2 plant, and every compound, manufacture, salts, derivative,
3 mixture, or preparation of ~~such the~~ plant, its seeds or extracts
4 (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

5 (16) N-ethyl-3-piperidyl benzilate.

6 (17) N-methyl-3-piperidyl benzilate.

7 (18) Psilocybin.

8 (19) Psilocyn.

9 (20) Tetrahydrocannabinols. Synthetic equivalents of the
10 substances contained in the plant, or in the resinous extractives of
11 Cannabis, sp. and/or synthetic substances, derivatives, and their
12 isomers with similar chemical structure and pharmacological
13 activity such as the following: delta 1 cis or trans
14 tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans
15 tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or
16 trans tetrahydrocannabinol, and its optical isomers.

17 (Since nomenclature of these substances is not internationally
18 standardized, compounds of these structures, regardless of
19 numerical designation of atomic positions covered).

20 (21) Ethylamine analog of phencyclidine—Some trade or
21 other names: N-ethyl-1-phenylcyclohexylamine,
22 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)
23 ethylamine, cyclohexamine, PCE.

24 (22) Pyrrolidine analog of phencyclidine—Some trade or other
25 names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

26 (23) Thiophene analog of phencyclidine—Some trade or other
27 names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog
28 of phencyclidine, TPCP, TCP.

29 (e) Depressants. Unless specifically excepted or unless listed in
30 another schedule, any material, compound, mixture, or
31 preparation which contains any quantity of the following
32 substances having a depressant effect on the central nervous
33 system, including its salts, isomers, and salts of isomers whenever
34 the existence of those salts, isomers, and salts of isomers is
35 possible within the specific chemical designation:

36 (1) Mecloqualone.

37 (2) Methaqualone.

38 (3) Gamma hydroxybutyric acid (also known by other names
39 such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate;
40 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate),

1 including its immediate precursors, isomers, esters, ethers, salts,
2 and salts of isomers, esters, and ethers, including, but not limited
3 to, gammabutyrolactone, for which an application has not been
4 approved under Section 505 of the Federal Food, Drug, and
5 Cosmetic Act (21 U.S.C. Sec. 355).

6 (f) Unless specifically excepted or unless listed in another
7 schedule, any material, compound, mixture, or preparation which
8 contains any quantity of the following substances having a
9 stimulant effect on the central nervous system, including its
10 isomers:

11 (1) Cocaine base.

12 (2) Fenethylline, including its salts.

13 (3) N-Ethylamphetamine, including its salts.

14 SEC. 131. Section 11377 of the Health and Safety Code is
15 amended to read:

16 11377. (a) Except as authorized by law and as otherwise
17 provided in subdivision (b) or Section 11375, or in Article 7
18 (commencing with Section 4211) of Chapter 9 of Division 2 of the
19 Business and Professions Code, every person who possesses any
20 controlled substance which is (1) classified in Schedule III, IV, or
21 V, and which is not a narcotic drug, (2) specified in subdivision (d)
22 of Section 11054, except paragraphs (13), (14), (15), and (20) of
23 subdivision (d), (3) specified in paragraph (11) of subdivision (c)
24 of Section 11056, (4) specified in paragraph (2) or (3) of
25 subdivision (f) of Section 11054, or (5) specified in subdivision
26 (d), (e), or (f) of Section 11055, unless upon the prescription of a
27 physician, dentist, podiatrist, or veterinarian, licensed to practice
28 in this state, shall be punished by imprisonment in a county jail for
29 a period of not more than one year or in the state prison.

30 (b) (1) Any person who violates subdivision (a) by unlawfully
31 possessing a controlled substance specified in subdivision (f) of
32 Section 11056, and who has not previously been convicted of ~~such~~
33 a violation involving a controlled substance specified in
34 subdivision (f) of Section 11056, is guilty of a misdemeanor.

35 (2) Any person who violates subdivision (a) by unlawfully
36 possessing a controlled substance specified in subdivision (g) of
37 Section 11056 is guilty of a misdemeanor.

38 (c) In addition to any fine assessed under subdivision (b), the
39 judge may assess a fine not to exceed seventy dollars (\$70) against
40 any person who violates subdivision (a), with the proceeds of this

1 fine to be used in accordance with Section 1463.23 of the Penal
2 Code. The court shall, however, take into consideration the
3 defendant's ability to pay, and no defendant shall be denied
4 probation because of his or her inability to pay the fine permitted
5 under this subdivision.

6 SEC. 132. Section 11382 of the Health and Safety Code is
7 amended to read:

8 11382. Every person who agrees, consents, or in any manner
9 offers to unlawfully sell, furnish, transport, administer, or give any
10 controlled substance which is (1) classified in Schedule III, IV, or
11 V and which is not a narcotic drug, or (2) specified in subdivision
12 (d) of Section 11054, except paragraphs (13), (14), (15), and (20)
13 of subdivision (d), specified in paragraph (11) of subdivision (c)
14 of Section 11056, or specified in subdivision (d), (e), or (f) of
15 Section 11055, to any person, or offers, arranges, or negotiates to
16 have ~~any such~~ *that* controlled substance unlawfully sold,
17 delivered, transported, furnished, administered, or given to any
18 person and then sells, delivers, furnishes, transports, administers,
19 or gives, or offers, or arranges, or negotiates to have sold,
20 delivered, transported, furnished, administered, or given to any
21 person any other liquid, substance, or material in lieu of ~~any such~~
22 *that* controlled substance shall be punished by imprisonment in the
23 county jail for not more than one year, or in the state prison.

24 SEC. 133. Section 25395.20 of the Health and Safety Code is
25 amended to read:

26 25395.20. (a) For purposes of this article, the following
27 definitions shall apply:

28 (1) "Account" means the Cleanup Loans and Environmental
29 Assistance to Neighborhoods Account established pursuant to
30 subdivision (b).

31 (2) (A) "Brownfield" means property that meets all of the
32 following conditions:

33 (i) It is located in an urban area.

34 (ii) It was previously the site of an economic activity that is no
35 longer in operation at that location.

36 (iii) It has been vacant or has had no occupant engaged in
37 year-round economically productive activities for a period of not
38 less than the 12 months previous to the date of application for a
39 loan pursuant to this article.

40 (B) "Brownfield" does not include any of the following:



1 (i) Property listed, or proposed for listing, on the National
2 Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605
3 (a)(8)(B)).

4 (ii) Property that is, or was, owned or operated by a department,
5 agency, or instrumentality of the United States.

6 (iii) Property that will be the site of a contiguous expansion or
7 improvement of an operating industrial or commercial facility,
8 unless the property is a brownfield described in subparagraph (C)
9 of paragraph (6).

10 (3) “Cleanup and abatement order” means an order issued by
11 a regional board pursuant to Section 13304 of the Water Code.

12 (4) “Cleanup Loans and Environmental Assistance to
13 Neighborhoods Program” or “CLEAN” means the loan program
14 established by the department pursuant to Section 25395.22, to
15 finance the performance of actions necessary to respond to the
16 release or threatened release of hazardous material on an eligible
17 property.

18 (5) “Economic activity” means a governmental activity, a
19 commercial, agricultural, industrial, or not-for-profit enterprise,
20 or other economic or business concern.

21 (6) “Eligible property” means a site that is any of the
22 following:

23 (A) A brownfield.

24 (B) An underutilized property that is any of the following:

25 (i) A property described in clause (v) of subparagraph (D) of
26 paragraph (16).

27 (ii) A property located in an enterprise zone established
28 pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing
29 with Section 7070) of Division 7 of Title 1 of the Government
30 Code), in a project area for which a redevelopment plan has been
31 approved pursuant to Article 4 (commencing with Section 33300)
32 of Chapter 4 of Part 1 of Division 24, or in an eligible area, as
33 determined by the Technology, Trade, and Commerce Agency
34 pursuant to paragraph (2) of subdivision (c) of Section 7072 of the
35 Government Code.

36 (iii) A property, the redevelopment of which will result in any
37 of the following:

38 (I) An increase in the number of full-time jobs that is at least
39 100 percent greater than the number of jobs provided by the

1 economic activity located on the property before redevelopment
2 occurred.

3 (II) An increase in property taxes paid to the local government
4 that is at least 100 percent greater than the property taxes paid by
5 the property owner before redevelopment occurred.

6 (III) Sales tax revenues to the local government that are
7 sufficient to defray the costs of providing municipal services to the
8 property after the redevelopment occurs.

9 (IV) Housing for very low, low-, or moderate-income
10 households, as defined in paragraph (2) of subdivision (h) of
11 Section 65589.5 of the Government Code.

12 (V) The construction of new or expanded school facilities,
13 public day care centers, parks, or community recreational
14 facilities.

15 (C) A brownfield or an underutilized property described in
16 clause (ii) of subparagraph (B) that will be the site of a contiguous
17 expansion of an operating industrial or commercial facility owned
18 or operated by one of the following:

19 (i) A small business.

20 (ii) A nonprofit corporation formed under the Nonprofit Public
21 Benefit Corporation Law (Part 2 (commencing with Section 5110)
22 of Division 2 of Title 1 of the Corporations Code) or the Nonprofit
23 Religious Corporation Law (Part 4 (commencing with Section
24 9110) of Division 2 of Title 1 of the Corporations Code).

25 (iii) A small business incubator that is undertaking the
26 expansion with the assistance of a grant authorized by Section
27 15339.3 of the Government Code or a loan guarantee provided
28 pursuant to Section 14090 of the Corporations Code.

29 (7) “Eligible property” does not include any of the following:

30 (A) Property listed or proposed for listing on the National
31 Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605
32 (a)(8)(B)).

33 (B) Property that is, or was, owned or operated by a
34 department, agency, or instrumentality of the United States.

35 (C) Property that will be the site of a contiguous expansion or
36 improvement of an operating industrial or commercial facility,
37 unless the property meets the criteria specified in subparagraph (C)
38 of paragraph (6).

39 (8) (A) “Hazardous material” means a substance or waste
40 that, because of its physical, chemical, or other characteristics,

1 may pose a risk of endangering human health or safety or of
2 degrading the environment. “Hazardous material” includes, but
3 is not limited to, all of the following:

4 (i) A hazardous substance, as defined in Section 25281 or
5 25316, including the substances specified in Section 25317.

6 (ii) A hazardous waste, as defined in Section 25117.

7 (iii) A waste, as defined in Section 101075, or as defined in
8 Section 13050 of the Water Code.

9 (B) “Hazardous material” does not include undisturbed
10 naturally occurring hazardous material unless it will adversely
11 affect the reasonable use of a property after response action is
12 completed.

13 (9) “Implementation costs,” for purposes of the expenditure of
14 any funds pursuant to this article, includes, but is not limited to, the
15 costs of overseeing and reviewing preliminary endangerment
16 assessments and response actions that are financed by a loan issued
17 pursuant to this article, including oversight conducted by a
18 regional board pursuant to Section 25395.28.

19 (10) “Investigating site contamination program” means the
20 loan program established by the department pursuant to Section
21 25395.21 to conduct a preliminary endangerment assessment of a
22 brownfield or an underutilized urban property.

23 (11) “Leaking underground fuel tank” has the same meaning
24 as “tank,” as defined in Section 25299.24.

25 (12) “No longer in operation” means an economic activity that
26 is, or previously was, located on a property that is not conducting
27 operations on the property of the type usually associated with the
28 economic activity.

29 (13) “Project” means any response action, and the planned
30 future development, included in an application for a loan pursuant
31 to Section 25395.22.

32 (14) “Property” means real property, as defined in Section 658
33 of the Civil Code.

34 (15) “Small business” means an independently owned and
35 operated business, that is not dominant in its field of operation,
36 that, together with affiliates, has 100 or fewer employees, and that
37 has average annual gross receipts of ten million dollars
38 (\$10,000,000) or less over the previous three years, or a business
39 that is a manufacturer, as defined in Section 14837 of the
40 Government Code, with 100 or fewer employees.

1 (16) “Underutilized property” means property that meets all of
2 the following conditions:

3 (A) It is located in an urban area.

4 (B) An economic activity is conducted on the property.

5 (C) It is the subject of a proposal for development pursuant to
6 this article.

7 (D) One of the following applies:

8 (i) The economic activity on the property is irregular or
9 intermittent in nature and uses the property for productive
10 purposes less than four months in any calendar year.

11 (ii) The economic activity on the property employs less than 25
12 percent of the property for productive purposes.

13 (iii) The structures, infrastructure, and other facilities on the
14 property are antiquated, obsolete, or in such poor repair that they
15 cannot be used for the purposes for which they were originally
16 constructed and require replacement in order to implement the
17 redevelopment proposal.

18 (iv) The economic activity conducted on the property is a
19 parking facility or an activity that offers a similar marginal
20 economic service and the facility or activity will be replaced when
21 the property is redeveloped.

22 (v) The property is adjacent to one or more brownfields or
23 underutilized properties that are the subject of a project under this
24 article and its inclusion in the project is necessary in order to ensure
25 that the redevelopment of the brownfield or brownfields or
26 underutilized property or underutilized properties occurs.

27 (E) An underutilized property does not include any of the
28 following:

29 (i) Property listed or proposed for listing on the National
30 Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605
31 (a)(8)(B)).

32 (ii) Property that is, or was, owned or operated by a department,
33 agency, or instrumentality of the United States.

34 (iii) Property that will be the site of a contiguous expansion or
35 improvement of an operating industrial or commercial facility,
36 unless the property is an underutilized property described in
37 subparagraph (C) of paragraph (6).

38 (17) “Regional board” means a California regional water
39 quality control board.

1 (18) “State board” means the State Water Resources Control
2 Board.

3 (19) “Urban area” means either of the following:

4 (A) The central portion of a city or a group of contiguous cities
5 with a population of 50,000 or more, together with adjacent
6 densely populated areas having a population density of at least
7 1,000 persons per square mile.

8 (B) An urbanized area as defined in paragraph (2) of
9 subdivision (b) of Section 21080.7 of the Public Resources Code.

10 (b) The Cleanup Loans and Environmental Assistance to
11 Neighborhoods Account is hereby established in the General Fund
12 to provide low-interest loans to qualified applicants for the
13 purpose of funding preliminary endangerment assessments and
14 response actions at brownfields and underutilized properties
15 located in the state pursuant to this article, and for ~~for~~ any other
16 purpose determined by the department to stimulate the
17 redevelopment of brownfields and underutilized properties, if the
18 department determines that the redevelopment will result in the
19 overall improvement of the community in which the property is
20 located and will provide a reasonable economic or social benefit,
21 in accordance with subdivision (c). All of the following moneys
22 shall be deposited in the account:

23 (1) Funds appropriated by the Legislature for the purposes of
24 this article.

25 (2) Notwithstanding Section 16475 of the Government Code,
26 any interest earned upon money deposited into the account.

27 (3) Proceeds from loan repayments.

28 (4) Proceeds from the sale of property pursuant to this article
29 that is the subject of foreclosure or its equivalent, as defined in
30 subdivision (f) of Section 25548.1, and proceeds from the
31 enforcement of any other security interest.

32 (c) (1) Except as provided in paragraph (2), notwithstanding
33 Section 13340 of the Government Code, the money in the account
34 is continuously appropriated without regard to fiscal years to the
35 department for the purpose of providing loans pursuant to Sections
36 25395.21 and 25395.22 and for the purpose of providing subsidies
37 for environmental insurance pursuant to Article 8.7 (commencing
38 with Section 25395.40), the California Financial Assurance and
39 Insurance for Redevelopment Program.

(2) The money in the account may be expended by the department, a regional board, the state board, and the agency for the implementation and administration of this article and for implementation and administration of the California Financial Assurance and Insurance for Redevelopment Program (Article 7 (commencing with Section 25395.40)), only upon appropriation by the Legislature in the annual Budget Act or in another measure.

SEC. 134. Section 26148 of the Health and Safety Code is amended to read:

26148. (a) Residential landlords shall provide written disclosure to prospective tenants of the potential health risks and the health impact that may result from exposure to mold by distributing a ~~consumer-oriented~~ *consumer-oriented* booklet developed and disseminated by the department.

(b) The requirements of this section shall be provided to prospective residential tenants prior to entering the rental or lease agreement.

(c) The requirements of this section shall not apply until the first January 1 or July 1, that occurs at least six months after the department approves the ~~consumer-oriented~~ *consumer-oriented* booklet, as described in subdivision (a).

SEC. 135. Section 32121 of the Health and Safety Code, as amended by Section 1 of Chapter 184 of the Statutes of 2001, is amended to read:

32121. Each local district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the

1 district, to receive by gift, devise, or bequest, and hold in trust or
2 otherwise, property, including corporate securities of all kinds,
3 situated in this state or elsewhere, and where not otherwise
4 provided, dispose of the same for the benefit of the district.

5 (f) To employ legal counsel to advise the board of directors in
6 all matters pertaining to the business of the district, to perform the
7 functions in respect to the legal affairs of the district as the board
8 may direct, and to call upon the district attorney of the county in
9 which the greater part of the land in the district is situated for legal
10 advice and assistance in all matters concerning the district, except
11 that if that county has a county counsel, the directors may call upon
12 the county counsel for legal advice and assistance.

13 (g) To employ any officers and employees, including architects
14 and consultants, the board of directors deems necessary to carry on
15 properly the business of the district.

16 (h) To prescribe the duties and powers of the health care facility
17 administrator, secretary, and other officers and employees of any
18 health care facilities of the district, to establish offices as may be
19 appropriate and to appoint board members or employees to those
20 offices, and to determine the number of, and appoint, all officers
21 and employees and to fix their compensation. The officers and
22 employees shall hold their offices or positions at the pleasure of the
23 boards of directors.

24 (i) To do any and all things that an individual might do that are
25 necessary for, and to the advantage of, a health care facility and a
26 nurses' training school, or a child care facility for the benefit of
27 employees of the health care facility or residents of the district.

28 (j) To establish, maintain, and operate, or provide assistance in
29 the operation of, one or more health facilities or health services,
30 including, but not limited to, outpatient programs, services, and
31 facilities; retirement programs, services, and facilities; chemical
32 dependency programs, services, and facilities; or other health care
33 programs, services, and facilities and activities at any location
34 within or without the district for the benefit of the district and the
35 people served by the district.

36 "Health care facilities," as used in this subdivision, means those
37 facilities defined in subdivision (b) of Section 32000.1 and
38 specifically includes freestanding chemical dependency recovery
39 units. "Health facilities," as used in this subdivision, may also

1 include those facilities defined in subdivision (d) of Section 15432
2 of the Government Code.

3 (k) To do any and all other acts and things necessary to carry out
4 this division.

5 (l) To acquire, maintain, and operate ambulances or ambulance
6 services within and without the district.

7 (m) To establish, maintain, and operate, or provide assistance
8 in the operation of, free clinics, diagnostic and testing centers,
9 health education programs, wellness and prevention programs,
10 rehabilitation, aftercare, and any other health care services
11 provider, groups, and organizations that are necessary for the
12 maintenance of good physical and mental health in the
13 communities served by the district.

14 (n) To establish and operate in cooperation with its medical
15 staff a coinsurance plan between the hospital district and the
16 members of its attending medical staff.

17 (o) To establish, maintain, and carry on its activities through
18 one or more corporations, joint ventures, or partnerships for the
19 benefit of the health care district.

20 (p) (1) To transfer, at fair market value, any part of its assets
21 to one or more corporations to operate and maintain the assets. A
22 transfer pursuant to this paragraph shall be deemed to be at fair
23 market value if an independent consultant, with expertise in
24 methods of appraisal and valuation and in accordance with
25 applicable governmental and industry standards for appraisal and
26 valuation, determines that fair and reasonable consideration is to
27 be received by the district for the transferred district assets. Before
28 the district transfers, pursuant to this paragraph, 50 percent or
29 more of the district's assets to one or more corporations, in sum or
30 by increment, the elected board shall, by resolution, submit to the
31 voters of the district a measure proposing the transfer. The measure
32 shall be placed on the ballot of a special election held upon the
33 request of the district or the ballot of the next regularly scheduled
34 election occurring at least 88 days after the resolution of the board.
35 If a majority of the voters voting on the measure vote in its favor,
36 the transfer shall be approved. The campaign disclosure
37 requirements applicable to local measures provided under Chapter
38 4 (commencing with Section 84100) of Title 9 of the Government
39 Code shall apply to this election.

1 (2) To transfer, for the benefit of the communities served by the
2 district, in the absence of adequate consideration, any part of the
3 assets of the district, including, without limitation, real property,
4 equipment, and other fixed assets, current assets, and cash, relating
5 to the operation of the district's health care facilities to one or more
6 nonprofit corporations to operate and maintain the assets.

7 (A) A transfer of 50 percent or more of the district's assets, in
8 sum or by increment, pursuant to this paragraph shall be deemed
9 to be for the benefit of the communities served by the district only
10 if all of the following occur:

11 (i) The transfer agreement and all arrangements necessary
12 thereto are fully discussed in advance of the district board decision
13 to transfer the assets of the district in at least five properly noticed
14 open and public meetings in compliance with Section 32106 and
15 the Ralph M. Brown Act (Chapter 9 (commencing with Section
16 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

17 (ii) The transfer agreement provides that the hospital district
18 shall approve all initial board members of the nonprofit
19 corporation and any subsequent board members as may be
20 specified in the transfer agreement.

21 (iii) The transfer agreement provides that all assets transferred
22 to the nonprofit corporation, and all assets accumulated by the
23 corporation during the term of the transfer agreement arising out
24 of, or from, the operation of the transferred assets, are to be
25 transferred back to the district upon termination of the transfer
26 agreement, including any extension of the transfer agreement.

27 (iv) The transfer agreement commits the nonprofit corporation
28 to operate and maintain the district's health care facilities and its
29 assets for the benefit of the communities served by the district.

30 (v) The transfer agreement requires that any funds received
31 from the district at the outset of the agreement or any time
32 thereafter during the term of the agreement be used only to reduce
33 district indebtedness, to acquire needed equipment for the district
34 health care facilities, to operate, maintain, and make needed
35 capital improvements to the district's health care facilities, to
36 provide supplemental health care services or facilities for the
37 communities served by the district, or to conduct other activities
38 that would further a valid public purpose if undertaken directly by
39 the district.

1 (B) A transfer of 33 percent or more but less than 50 percent of
2 the district's assets, in sum or by increment, pursuant to this
3 paragraph shall be deemed to be for the benefit of the communities
4 served by the district only if both of the following occur:

5 (i) The transfer agreement and all arrangements necessary
6 thereto are fully discussed in advance of the district board decision
7 to transfer the assets of the district in at least two properly noticed
8 open and public meetings in compliance with Section 32106 and
9 the Ralph M. Brown Act (Chapter 9 (commencing with Section
10 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

11 (ii) The transfer agreement meets all of the requirements of
12 clauses (ii) to (v), inclusive, of subparagraph (A).

13 (C) A transfer of 10 percent or more but less than 33 percent of
14 the district's assets, in sum or by increment, pursuant to this
15 paragraph shall be deemed to be for the benefit of the communities
16 served by the district only if both of the following occur:

17 (i) The transfer agreement and all arrangements necessary
18 thereto are fully discussed in advance of the district board decision
19 to transfer the assets of the district in at least two properly noticed
20 open and public meetings in compliance with Section 32106 and
21 the Ralph M. Brown Act (Chapter 9 (commencing with Section
22 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

23 (ii) The transfer agreement meets all of the requirements of
24 clauses (iii) to (v), inclusive, of subparagraph (A).

25 (D) Before the district transfers, pursuant to this paragraph, 50
26 percent or more of the district's assets to one or more nonprofit
27 corporations, in sum or by increment, the elected board shall, by
28 resolution, submit to the voters of the district a measure proposing
29 the transfer. The measure shall be placed on the ballot of a special
30 election held upon the request of the district or the ballot of the next
31 regularly scheduled election occurring at least 88 days after the
32 resolution of the board. If a majority of the voters voting on the
33 measure vote in its favor, the transfer shall be approved. The
34 campaign disclosure requirements applicable to local measures
35 provided under Chapter 4 (commencing with Section 84100) of
36 Title 9 of the Government Code shall apply to this election.

37 (E) Notwithstanding the other provisions of this paragraph, a
38 hospital district shall not transfer any portion of its assets to a
39 private nonprofit organization that is owned or controlled by a

1 religious creed, church, or sectarian denomination in the absence
2 of adequate consideration.

3 (3) If the district board has previously transferred less than 50
4 percent of the district's assets pursuant to this subdivision, before
5 any additional assets are transferred, the board shall hold a public
6 hearing and shall make a public determination that the additional
7 assets to be transferred will not, in combination with any assets
8 previously transferred, equal 50 percent or more of the total assets
9 of the district.

10 (4) The amendments to this subdivision made during the
11 1991–92 Regular Session, and the amendments made to this
12 subdivision and to Section 32126 made during the 1993–94
13 Regular Session, shall only apply to transfers made on or after the
14 effective dates of the acts amending this subdivision. The
15 amendments to this subdivision made during those sessions shall
16 not apply to any of the following:

17 (A) A district that has discussed and adopted a board
18 resolution, prior to September 1, 1992, that authorizes the
19 development of a business plan for an integrated delivery system.

20 (B) A lease agreement, transfer agreement, or both between a
21 district and a nonprofit corporation that were in full force and
22 effect as of September 1, 1992, for as long as that lease agreement,
23 transfer agreement, or both remain in full force and effect.

24 (5) Notwithstanding paragraph (4), if substantial amendments
25 are proposed to be made to a transfer agreement described in
26 subparagraph (A) or (B) of paragraph (4), the amendments shall
27 be fully discussed in advance of the district board's decision to
28 adopt the amendments in at least two properly noticed open and
29 public meetings in compliance with Section 32106 and the Ralph
30 M. Brown Act (Chapter 9 (commencing with Section 54950) of
31 Part 1 of Division 2 of Title 5 of the Government Code).

32 (6) Notwithstanding paragraphs (4) and (5), a transfer
33 agreement described in subparagraph (A) or (B) of paragraph (4)
34 that provided for the transfer of less than 50 percent of a district's
35 assets shall be subject to the requirements of *this* subdivision ~~(p)~~
36 ~~of Section 32124~~ when subsequent amendments to that transfer
37 agreement would result in the transfer, in sum or by increment, of
38 50 percent or more of a district's assets to the nonprofit
39 corporation.

(7) For purposes of this subdivision, a “transfer” means the transfer of ownership of the assets of a district. A lease of the real property or the tangible personal property of a district shall not be subject to this subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) (A) Nothing in this section, including subdivision (j), shall be construed to permit a local district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is not located within the boundaries of the district.

(B) Notwithstanding subparagraph (A), Eastern Plumas Health Care District may obtain and be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is located on the campus of the Sierra Valley District Hospital. This subparagraph shall have no application to any other district and is intended only to address the urgent need to preserve skilled nursing or intermediate care services within the rural County of Sierra.

(C) Subparagraph (B) shall only remain operative until the Sierra Valley District Hospital is annexed by the Eastern Plumas Health Care District or January 1, 2008, whichever occurs first. In no event shall Eastern Plumas Health Care District increase the number of licensed beds at the Sierra Valley District Hospital during the operative period of subparagraph (B).

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care service plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Managed Care, at any location within or without the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in, or constitute, the giving

1 or lending of the district's credit, assets, surpluses, cash, or
2 tangible goods to, or in aid of, any person, association, or
3 corporation in violation of Section 6 of Article XVI of the
4 California Constitution.

5 Nothing in this section shall be construed to authorize activities
6 that corporations and other artificial legal entities are prohibited
7 from conducting by Section 2400 of the Business and Professions
8 Code.

9 Any agreement to provide health care coverage that is a health
10 care service plan, as defined in subdivision (f) of Section 1345,
11 shall be subject to Chapter 2.2 (commencing with Section 1340)
12 of Division 2, unless exempted pursuant to Section 1343 or
13 1349.2.

14 A district shall not provide health care coverage for any
15 employee of an employer operating within the communities
16 served by the district, unless the Legislature specifically
17 authorizes, or has authorized in this section or elsewhere, the
18 coverage.

19 Nothing in this section shall be construed to authorize any
20 district to contribute its facilities to any joint venture that could
21 result in transfer of the facilities from district ownership.

22 (s) To provide health care coverage to members of the district's
23 medical staff, employees of the medical staff members, and the
24 dependents of both groups, on a self-pay basis.

25 (t) This section shall remain in effect only until January 1,
26 2006, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2006, deletes or extends that date.

28 SEC. 136. Section 32121 of the Health and Safety Code, as
29 amended by Section 2 of Chapter 184 of the Statutes of 2001, is
30 amended to read:

31 32121. Each local district shall have and may exercise the
32 following powers:

33 (a) To have and use a corporate seal and alter it at its pleasure.

34 (b) To sue and be sued in all courts and places and in all actions
35 and proceedings whatever.

36 (c) To purchase, receive, have, take, hold, lease, use, and enjoy
37 property of every kind and description within and without the
38 limits of the district, and to control, dispose of, convey, and
39 encumber the same and create a leasehold interest in the same for
40 the benefit of the district.

1 (d) To exercise the right of eminent domain for the purpose of
2 acquiring real or personal property of every kind necessary to the
3 exercise of any of the powers of the district.

4 (e) To establish one or more trusts for the benefit of the district,
5 to administer any trust declared or created for the benefit of the
6 district, to designate one or more trustees for trusts created by the
7 district, to receive by gift, devise, or bequest, and hold in trust or
8 otherwise, property, including corporate securities of all kinds,
9 situated in this state or elsewhere, and where not otherwise
10 provided, dispose of the same for the benefit of the district.

11 (f) To employ legal counsel to advise the board of directors in
12 all matters pertaining to the business of the district, to perform the
13 functions in respect to the legal affairs of the district as the board
14 may direct, and to call upon the district attorney of the county in
15 which the greater part of the land in the district is situated for legal
16 advice and assistance in all matters concerning the district, except
17 that if that county has a county counsel, the directors may call upon
18 the county counsel for legal advice and assistance.

19 (g) To employ any officers and employees, including architects
20 and consultants, the board of directors deems necessary to carry on
21 properly the business of the district.

22 (h) To prescribe the duties and powers of the health care facility
23 administrator, secretary, and other officers and employees of any
24 health care facilities of the district, to establish offices as may be
25 appropriate and to appoint board members or employees to those
26 offices, and to determine the number of, and appoint, all officers
27 and employees and to fix their compensation. The officers and
28 employees shall hold their offices or positions at the pleasure of the
29 boards of directors.

30 (i) To do any and all things that an individual might do that are
31 necessary for, and to the advantage of, a health care facility and a
32 nurses' training school, or a child care facility for the benefit of
33 employees of the health care facility or residents of the district.

34 (j) To establish, maintain, and operate, or provide assistance in
35 the operation of, one or more health facilities or health services,
36 including, but not limited to, outpatient programs, services, and
37 facilities; retirement programs, services, and facilities; chemical
38 dependency programs, services, and facilities; or other health care
39 programs, services, and facilities and activities at any location

1 within or without the district for the benefit of the district and the
2 people served by the district.

3 “Health care facilities,” as used in this subdivision, means those
4 facilities defined in subdivision (b) of Section 32000.1 and
5 specifically includes freestanding chemical dependency recovery
6 units. “Health facilities,” as used in this subdivision, may also
7 include those facilities defined in subdivision (d) of Section 15432
8 of the Government Code.

9 (k) To do any and all other acts and things necessary to carry out
10 this division.

11 (l) To acquire, maintain, and operate ambulances or ambulance
12 services within and without the district.

13 (m) To establish, maintain, and operate, or provide assistance
14 in the operation of, free clinics, diagnostic and testing centers,
15 health education programs, wellness and prevention programs,
16 rehabilitation, aftercare, and any other health care services
17 provider, groups, and organizations that are necessary for the
18 maintenance of good physical and mental health in the
19 communities served by the district.

20 (n) To establish and operate in cooperation with its medical
21 staff a coinsurance plan between the hospital district and the
22 members of its attending medical staff.

23 (o) To establish, maintain, and carry on its activities through
24 one or more corporations, joint ventures, or partnerships for the
25 benefit of the health care district.

26 (p) (1) To transfer, at fair market value, any part of its assets
27 to one or more nonprofit corporations to operate and maintain the
28 assets. A transfer pursuant to this paragraph shall be deemed to be
29 at fair market value if an independent consultant, with expertise in
30 methods of appraisal and valuation and in accordance with
31 applicable governmental and industry standards for appraisal and
32 valuation, determines that fair and reasonable consideration is to
33 be received by the district for the transferred district assets. Before
34 the district transfers, pursuant to this paragraph, 50 percent or
35 more of the district’s assets to one or more nonprofit corporations,
36 in sum or by increment, the elected board shall, by resolution,
37 submit to the voters of the district a measure proposing the transfer.
38 The measure shall be placed on the ballot of a special election held
39 upon the request of the district or the ballot of the next regularly
40 scheduled election occurring at least 88 days after the resolution

1 of the board. If a majority of the voters voting on the measure vote
2 in its favor, the transfer shall be approved. The campaign
3 disclosure requirements applicable to local measures provided
4 under Chapter 4 (commencing with Section 84100) of Title 9 of
5 the Government Code shall apply to this election.

6 (2) To transfer, for the benefit of the communities served by the
7 district, in the absence of adequate consideration, any part of the
8 assets of the district, including, without limitation, real property,
9 equipment, and other fixed assets, current assets, and cash, relating
10 to the operation of the district's health care facilities to one or more
11 nonprofit corporations to operate and maintain the assets.

12 (A) A transfer of 50 percent or more of the district's assets, in
13 sum or by increment, pursuant to this paragraph shall be deemed
14 to be for the benefit of the communities served by the district only
15 if all of the following occur:

16 (i) The transfer agreement and all arrangements necessary
17 thereto are fully discussed in advance of the district board decision
18 to transfer the assets of the district in at least five properly noticed
19 open and public meetings in compliance with Section 32106 and
20 the Ralph M. Brown Act (Chapter 9 (commencing with Section
21 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

22 (ii) The transfer agreement provides that the hospital district
23 shall approve all initial board members of the nonprofit
24 corporation and any subsequent board members as may be
25 specified in the transfer agreement.

26 (iii) The transfer agreement provides that all assets transferred
27 to the nonprofit corporation, and all assets accumulated by the
28 corporation during the term of the transfer agreement arising out
29 of, or from, the operation of the transferred assets, are to be
30 transferred back to the district upon termination of the transfer
31 agreement, including any extension of the transfer agreement.

32 (iv) The transfer agreement commits the nonprofit corporation
33 to operate and maintain the district's health care facilities and its
34 assets for the benefit of the communities served by the district.

35 (v) The transfer agreement requires that any funds received
36 from the district at the outset of the agreement or any time
37 thereafter during the term of the agreement be used only to reduce
38 district indebtedness, to acquire needed equipment for the district
39 health care facilities, to operate, maintain, and make needed
40 capital improvements to the district's health care facilities, to

1 provide supplemental health care services or facilities for the
2 communities served by the district, or to conduct other activities
3 that would further a valid public purpose if undertaken directly by
4 the district.

5 (B) A transfer of 33 percent or more but less than 50 percent of
6 the district's assets, in sum or by increment, pursuant to this
7 paragraph shall be deemed to be for the benefit of the communities
8 served by the district only if both of the following occur:

9 (i) The transfer agreement and all arrangements necessary
10 thereto are fully discussed in advance of the district board decision
11 to transfer the assets of the district in at least two properly noticed
12 open and public meetings in compliance with Section 32106 and
13 the Ralph M. Brown Act (Chapter 9 (commencing with Section
14 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

15 (ii) The transfer agreement meets all of the requirements of
16 clauses (ii) to (v), inclusive, of subparagraph (A).

17 (C) A transfer of 10 percent or more but less than 33 percent of
18 the district's assets, in sum or by increment, pursuant to this
19 paragraph shall be deemed to be for the benefit of the communities
20 served by the district only if both of the following occur:

21 (i) The transfer agreement and all arrangements necessary
22 thereto are fully discussed in advance of the district board decision
23 to transfer the assets of the district in at least two properly noticed
24 open and public meetings in compliance with Section 32106 and
25 the Ralph M. Brown Act (Chapter 9 (commencing with Section
26 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

27 (ii) The transfer agreement meets all of the requirements of
28 clauses (iii) to (v), inclusive, of subparagraph (A).

29 (D) Before the district transfers, pursuant to this paragraph, 50
30 percent or more of the district's assets to one or more nonprofit
31 corporations, in sum or by increment, the elected board shall, by
32 resolution, submit to the voters of the district a measure proposing
33 the transfer. The measure shall be placed on the ballot of a special
34 election held upon the request of the district or the ballot of the next
35 regularly scheduled election occurring at least 88 days after the
36 resolution of the board. If a majority of the voters voting on the
37 measure vote in its favor, the transfer shall be approved. The
38 campaign disclosure requirements applicable to local measures
39 provided under Chapter 4 (commencing with Section 84100) of
40 Title 9 of the Government Code shall apply to this election.

1 (E) Notwithstanding the other provisions of this paragraph, a
2 hospital district shall not transfer any portion of its assets to a
3 private nonprofit organization that is owned or controlled by a
4 religious creed, church, or sectarian denomination in the absence
5 of adequate consideration.

6 (3) If the district board has previously transferred less than 50
7 percent of the district's assets pursuant to this subdivision, before
8 any additional assets are transferred, the board shall hold a public
9 hearing and shall make a public determination that the additional
10 assets to be transferred will not, in combination with any assets
11 previously transferred, equal 50 percent or more of the total assets
12 of the district.

13 (4) The amendments to this subdivision made during the
14 1991–92 Regular Session, and the amendments made to this
15 subdivision and to Section 32126 made during the 1993–94
16 Regular Session, shall only apply to transfers made on or after the
17 effective dates of the acts amending this subdivision. The
18 amendments to this subdivision made during those sessions shall
19 not apply to any of the following:

20 (A) A district that has discussed and adopted a board
21 resolution, prior to September 1, 1992, that authorizes the
22 development of a business plan for an integrated delivery system.

23 (B) A lease agreement, transfer agreement, or both between a
24 district and a nonprofit corporation that were in full force and
25 effect as of September 1, 1992, for as long as that lease agreement,
26 transfer agreement, or both remain in full force and effect.

27 (5) Notwithstanding paragraph (4), if substantial amendments
28 are proposed to be made to a transfer agreement described in
29 subparagraph (A) or (B) of paragraph (4), the amendments shall
30 be fully discussed in advance of the district board's decision to
31 adopt the amendments in at least two properly noticed open and
32 public meetings in compliance with Section 32106 and the Ralph
33 M. Brown Act (Chapter 9 (commencing with Section 54950) of
34 Part 1 of Division 2 of Title 5 of the Government Code).

35 (6) Notwithstanding paragraphs (4) and (5), a transfer
36 agreement described in subparagraph (A) or (B) of paragraph (4)
37 that provided for the transfer of less than 50 percent of a district's
38 assets shall be subject to the requirements of *this* subdivision ~~(p)~~
39 ~~of Section 32124~~ when subsequent amendments to that transfer
40 agreement would result in the transfer, in sum or by increment, of

1 50 percent or more of a district's assets to the nonprofit
2 corporation.

3 (7) For purposes of this subdivision, a "transfer" means the
4 transfer of ownership of the assets of a district. A lease of the real
5 property or the tangible personal property of a district shall not be
6 subject to this subdivision except as specified in Section 32121.4
7 and as required under Section 32126.

8 (8) Districts that request a special election pursuant to
9 paragraph (1) or (2) shall reimburse counties for the costs of that
10 special election as prescribed pursuant to Section 10520 of the
11 Elections Code.

12 (9) (A) Nothing in this section, including subdivision (j), shall
13 be construed to permit a local district to obtain or be issued a single
14 consolidated license to operate a separate physical plant as a
15 skilled nursing facility or an intermediate care facility that is not
16 located within the boundaries of the district.

17 (B) Notwithstanding subparagraph (A), Eastern Plumas Health
18 Care District may obtain and be issued a single consolidated
19 license to operate a separate physical plant as a skilled nursing
20 facility or an intermediate care facility that is located on the
21 campus of the Sierra Valley District Hospital. This subparagraph
22 shall have no application to any other district and is intended only
23 to address the urgent need to preserve skilled nursing or
24 intermediate care services within the rural County of Sierra.

25 (C) Subparagraph (B) shall only remain operative until the
26 Sierra Valley District Hospital is annexed by the Eastern Plumas
27 Health Care District or January 1, 2008, whichever occurs first. In
28 no event shall Eastern Plumas Health Care District increase the
29 number of licensed beds at the Sierra Valley District Hospital
30 during the operative period of subparagraph (B).

31 (10) A transfer of any of the assets of a district to one or more
32 nonprofit corporations to operate and maintain the assets shall not
33 be required to meet paragraphs (1) to (9), inclusive, of this
34 subdivision if all of the following conditions apply at the time of
35 the transfer:

36 (A) The district has entered into a loan that is insured by the
37 State of California under Chapter 1 (commencing with Section
38 129000) of Part 6 of Division 107.



1 (B) The district is in default of its loan obligations, as
2 determined by the Office of Statewide Health Planning and
3 Development.

4 (C) The Office of Statewide Health Planning and Development
5 and the district, in their best judgment, agree that the transfer of
6 some or all of the assets of the district to a nonprofit corporation
7 or corporations is necessary to cure the default, and will obviate
8 the need for foreclosure. This cure of default provision shall be
9 applicable prior to the office foreclosing on district hospital assets.
10 After the office has foreclosed on district hospital assets, or
11 otherwise taken possession in accordance with law, the office may
12 exercise all of its powers to deal with and dispose of hospital
13 property.

14 (D) The transfer and all arrangements necessary thereto are
15 discussed in advance of the transfer in at least one properly noticed
16 open and public meeting in compliance with Section 32106 and the
17 Ralph M. Brown Act (Chapter 9 (commencing with Section
18 54950) of Part 1 *of* Division 2 of Title 5 of the Government Code).
19 The meeting referred to in this paragraph shall be noticed and held
20 within 90 days of notice in writing to the district by the office of
21 an event of default. If the meeting is not held within this 90-day
22 period, the district shall be deemed to have waived this
23 requirement to have a meeting.

24 (11) If a transfer under paragraph (10) is a lease, the lease shall
25 provide that the assets shall revert to the district at the conclusion
26 of the leasehold interest. If the transfer is a sale, the proceeds shall
27 be used first to retire the obligation insured by the office, then to
28 retire any other debts of the district. After providing for debts, any
29 remaining funds shall revert to the district.

30 (q) To contract for bond insurance, letters of credit,
31 remarketing services, and other forms of credit enhancement and
32 liquidity support for its bonds, notes, and other indebtedness and
33 to enter into reimbursement agreements, monitoring agreements,
34 remarketing agreements, and similar ancillary contracts in
35 connection therewith.

36 (r) To establish, maintain, operate, participate in, or manage
37 capitated health care service plans, health maintenance
38 organizations, preferred provider organizations, and other
39 managed health care systems and programs properly licensed by
40 the Department of Insurance or the Department of Managed Care,

1 at any location within or without the district for the benefit of
2 residents of communities served by the district. However, that
3 activity shall not be deemed to result in, or constitute, the giving
4 or lending of the district's credit, assets, surpluses, cash, or
5 tangible goods to, or in aid of, any person, association, or
6 corporation in violation of Section 6 of Article XVI of the
7 California Constitution.

8 Nothing in this section shall be construed to authorize activities
9 that corporations and other artificial legal entities are prohibited
10 from conducting by Section 2400 of the Business and Professions
11 Code.

12 Any agreement to provide health care coverage that is a health
13 care service plan, as defined in subdivision (f) of Section 1345,
14 shall be subject to Chapter 2.2 (commencing with Section 1340)
15 of Division 2, unless exempted pursuant to Section 1343 or
16 1349.2.

17 A district shall not provide health care coverage for any
18 employee of an employer operating within the communities
19 served by the district, unless the Legislature specifically
20 authorizes, or has authorized in this section or elsewhere, the
21 coverage.

22 Nothing in this section shall be construed to authorize any
23 district to contribute its facilities to any joint venture that could
24 result in transfer of the facilities from district ownership.

25 (s) To provide health care coverage to members of the district's
26 medical staff, employees of the medical staff members, and the
27 dependents of both groups, on a self-pay basis.

28 (t) This section shall become operative on January 1, 2006.

29 (u) This section shall remain in effect only until January 1,
30 2008, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, 2008, deletes or extends that date.

32 SEC. 137. Section 32121 of the Health and Safety Code, as
33 added by Section 3 of Chapter 184 of the Statutes of 2001, is
34 amended to read:

35 32121. Each local district shall have and may exercise the
36 following powers:

37 (a) To have and use a corporate seal and alter it at its pleasure.

38 (b) To sue and be sued in all courts and places and in all actions
39 and proceedings whatever.



1 (c) To purchase, receive, have, take, hold, lease, use, and enjoy
2 property of every kind and description within and without the
3 limits of the district, and to control, dispose of, convey, and
4 encumber the same and create a leasehold interest in the same for
5 the benefit of the district.

6 (d) To exercise the right of eminent domain for the purpose of
7 acquiring real or personal property of every kind necessary to the
8 exercise of any of the powers of the district.

9 (e) To establish one or more trusts for the benefit of the district,
10 to administer any trust declared or created for the benefit of the
11 district, to designate one or more trustees for trusts created by the
12 district, to receive by gift, devise, or bequest, and hold in trust or
13 otherwise, property, including corporate securities of all kinds,
14 situated in this state or elsewhere, and where not otherwise
15 provided, dispose of the same for the benefit of the district.

16 (f) To employ legal counsel to advise the board of directors in
17 all matters pertaining to the business of the district, to perform the
18 functions in respect to the legal affairs of the district as the board
19 may direct, and to call upon the district attorney of the county in
20 which the greater part of the land in the district is situated for legal
21 advice and assistance in all matters concerning the district, except
22 that if that county has a county counsel, the directors may call upon
23 the county counsel for legal advice and assistance.

24 (g) To employ any officers and employees, including architects
25 and consultants, the board of directors deems necessary to carry on
26 properly the business of the district.

27 (h) To prescribe the duties and powers of the health care facility
28 administrator, secretary, and other officers and employees of any
29 health care facilities of the district, to establish offices as may be
30 appropriate and to appoint board members or employees to those
31 offices, and to determine the number of, and appoint, all officers
32 and employees and to fix their compensation. The officers and
33 employees shall hold their offices or positions at the pleasure of the
34 boards of directors.

35 (i) To do any and all things that an individual might do that are
36 necessary for, and to the advantage of, a health care facility and a
37 nurses' training school, or a child care facility for the benefit of
38 employees of the health care facility or residents of the district.

39 (j) To establish, maintain, and operate, or provide assistance in
40 the operation of, one or more health facilities or health services,

1 including, but not limited to, outpatient programs, services, and
2 facilities; retirement programs, services, and facilities; chemical
3 dependency programs, services, and facilities; or other health care
4 programs, services, and facilities and activities at any location
5 within or without the district for the benefit of the district and the
6 people served by the district.

7 “Health care facilities,” as used in this subdivision, means those
8 facilities defined in subdivision (b) of Section 32000.1 and
9 specifically includes freestanding chemical dependency recovery
10 units. “Health facilities,” as used in this subdivision, may also
11 include those facilities defined in subdivision (d) of Section 15432
12 of the Government Code.

13 (k) To do any and all other acts and things necessary to carry out
14 this division.

15 (l) To acquire, maintain, and operate ambulances or ambulance
16 services within and without the district.

17 (m) To establish, maintain, and operate, or provide assistance
18 in the operation of, free clinics, diagnostic and testing centers,
19 health education programs, wellness and prevention programs,
20 rehabilitation, aftercare, and any other health care services
21 provider, groups, and organizations that are necessary for the
22 maintenance of good physical and mental health in the
23 communities served by the district.

24 (n) To establish and operate in cooperation with its medical
25 staff a coinsurance plan between the hospital district and the
26 members of its attending medical staff.

27 (o) To establish, maintain, and carry on its activities through
28 one or more corporations, joint ventures, or partnerships for the
29 benefit of the health care district.

30 (p) (1) To transfer, at fair market value, any part of its assets
31 to one or more nonprofit corporations to operate and maintain the
32 assets. A transfer pursuant to this paragraph shall be deemed to be
33 at fair market value if an independent consultant, with expertise in
34 methods of appraisal and valuation and in accordance with
35 applicable governmental and industry standards for appraisal and
36 valuation, determines that fair and reasonable consideration is to
37 be received by the district for the transferred district assets. Before
38 the district transfers, pursuant to this paragraph, 50 percent or
39 more of the district’s assets to one or more nonprofit corporations,
40 in sum or by increment, the elected board shall, by resolution,



1 submit to the voters of the district a measure proposing the transfer.
2 The measure shall be placed on the ballot of a special election held
3 upon the request of the district or the ballot of the next regularly
4 scheduled election occurring at least 88 days after the resolution
5 of the board. If a majority of the voters voting on the measure vote
6 in its favor, the transfer shall be approved. The campaign
7 disclosure requirements applicable to local measures provided
8 under Chapter 4 (commencing with Section 84100) of Title 9 of
9 the Government Code shall apply to this election.

10 (2) To transfer, for the benefit of the communities served by the
11 district, in the absence of adequate consideration, any part of the
12 assets of the district, including, without limitation, real property,
13 equipment, and other fixed assets, current assets, and cash, relating
14 to the operation of the district's health care facilities to one or more
15 nonprofit corporations to operate and maintain the assets.

16 (A) A transfer of 50 percent or more of the district's assets, in
17 sum or by increment, pursuant to this paragraph shall be deemed
18 to be for the benefit of the communities served by the district only
19 if all of the following occur:

20 (i) The transfer agreement and all arrangements necessary
21 thereto are fully discussed in advance of the district board decision
22 to transfer the assets of the district in at least five properly noticed
23 open and public meetings in compliance with Section 32106 and
24 the Ralph M. Brown Act (Chapter 9 (commencing with Section
25 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

26 (ii) The transfer agreement provides that the hospital district
27 shall approve all initial board members of the nonprofit
28 corporation and any subsequent board members as may be
29 specified in the transfer agreement.

30 (iii) The transfer agreement provides that all assets transferred
31 to the nonprofit corporation, and all assets accumulated by the
32 corporation during the term of the transfer agreement arising out
33 of, or from, the operation of the transferred assets, are to be
34 transferred back to the district upon termination of the transfer
35 agreement, including any extension of the transfer agreement.

36 (iv) The transfer agreement commits the nonprofit corporation
37 to operate and maintain the district's health care facilities and its
38 assets for the benefit of the communities served by the district.

39 (v) The transfer agreement requires that any funds received
40 from the district at the outset of the agreement or any time

1 thereafter during the term of the agreement be used only to reduce
2 district indebtedness, to acquire needed equipment for the district
3 health care facilities, to operate, maintain, and make needed
4 capital improvements to the district's health care facilities, to
5 provide supplemental health care services or facilities for the
6 communities served by the district, or to conduct other activities
7 that would further a valid public purpose if undertaken directly by
8 the district.

9 (B) A transfer of 33 percent or more but less than 50 percent of
10 the district's assets, in sum or by increment, pursuant to this
11 paragraph shall be deemed to be for the benefit of the communities
12 served by the district only if both of the following occur:

13 (i) The transfer agreement and all arrangements necessary
14 thereto are fully discussed in advance of the district board decision
15 to transfer the assets of the district in at least two properly noticed
16 open and public meetings in compliance with Section 32106 and
17 the Ralph M. Brown Act (Chapter 9 (commencing with Section
18 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

19 (ii) The transfer agreement meets all of the requirements of
20 clauses (ii) to (v), inclusive, of subparagraph (A).

21 (C) A transfer of 10 percent or more but less than 33 percent of
22 the district's assets, in sum or by increment, pursuant to this
23 paragraph shall be deemed to be for the benefit of the communities
24 served by the district only if both of the following occur:

25 (i) The transfer agreement and all arrangements necessary
26 thereto are fully discussed in advance of the district board decision
27 to transfer the assets of the district in at least two properly noticed
28 open and public meetings in compliance with Section 32106 and
29 the Ralph M. Brown Act (Chapter 9 (commencing with Section
30 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

31 (ii) The transfer agreement meets all of the requirements of
32 clauses (iii) to (v), inclusive, of subparagraph (A).

33 (D) Before the district transfers, pursuant to this paragraph, 50
34 percent or more of the district's assets to one or more nonprofit
35 corporations, in sum or by increment, the elected board shall, by
36 resolution, submit to the voters of the district a measure proposing
37 the transfer. The measure shall be placed on the ballot of a special
38 election held upon the request of the district or the ballot of the next
39 regularly scheduled election occurring at least 88 days after the
40 resolution of the board. If a majority of the voters voting on the

1 measure vote in its favor, the transfer shall be approved. The
2 campaign disclosure requirements applicable to local measures
3 provided under Chapter 4 (commencing with Section 84100) of
4 Title 9 of the Government Code shall apply to this election.

5 (E) Notwithstanding the other provisions of this paragraph, a
6 hospital district shall not transfer any portion of its assets to a
7 private nonprofit organization that is owned or controlled by a
8 religious creed, church, or sectarian denomination in the absence
9 of adequate consideration.

10 (3) If the district board has previously transferred less than 50
11 percent of the district's assets pursuant to this subdivision, before
12 any additional assets are transferred, the board shall hold a public
13 hearing and shall make a public determination that the additional
14 assets to be transferred will not, in combination with any assets
15 previously transferred, equal 50 percent or more of the total assets
16 of the district.

17 (4) The amendments to this subdivision made during the
18 1991–92 Regular Session, and the amendments made to this
19 subdivision and to Section 32126 made during the 1993–94
20 Regular Session, shall only apply to transfers made on or after the
21 effective dates of the acts amending this subdivision. The
22 amendments to this subdivision made during those sessions shall
23 not apply to any of the following:

24 (A) A district that has discussed and adopted a board resolution
25 prior to September 1, 1992, that authorizes the development of a
26 business plan for an integrated delivery system.

27 (B) A lease agreement, transfer agreement, or both between a
28 district and a nonprofit corporation that were in full force and
29 effect as of September 1, 1992, for as long as that lease agreement,
30 transfer agreement, or both remain in full force and effect.

31 (5) Notwithstanding paragraph (4), if substantial amendments
32 are proposed to be made to a transfer agreement described in
33 subparagraph (A) or (B) of paragraph (4), the amendments shall
34 be fully discussed in advance of the district board's decision to
35 adopt the amendments in at least two properly noticed open and
36 public meetings in compliance with Section 32106 and the Ralph
37 M. Brown Act (Chapter 9 (commencing with Section 54950) of
38 Part 1 of Division 2 of Title 5 of the Government Code).

39 (6) Notwithstanding paragraphs (4) and (5), a transfer
40 agreement described in subparagraph (A) or (B) of paragraph (4)

1 that provided for the transfer of less than 50 percent of a district's
2 assets shall be subject to the requirements of *this* subdivision ~~(p)~~
3 ~~of Section 32121~~ when subsequent amendments to that transfer
4 agreement would result in the transfer, in sum or by increment, of
5 50 percent or more of a district's assets to the nonprofit
6 corporation.

7 (7) For purposes of this subdivision, a "transfer" means the
8 transfer of ownership of the assets of a district. A lease of the real
9 property or the tangible personal property of a district shall not be
10 subject to this subdivision except as specified in Section 32121.4
11 and as required under Section 32126.

12 (8) Districts that request a special election pursuant to
13 paragraph (1) or (2) shall reimburse counties for the costs of that
14 special election as prescribed pursuant to Section 10520 of the
15 Elections Code.

16 (9) Nothing in this section, including subdivision (j), shall be
17 construed to permit a local district to obtain or be issued a single
18 consolidated license to operate a separate physical plant as a
19 skilled nursing facility or an intermediate care facility that is not
20 located within the boundaries of the district.

21 (10) A transfer of any of the assets of a district to one or more
22 nonprofit corporations to operate and maintain the assets shall not
23 be required to meet paragraphs (1) to (9), inclusive, of this
24 subdivision if all of the following conditions apply at the time of
25 the transfer:

26 (A) The district has entered into a loan that is insured by the
27 State of California under Chapter 1 (commencing with Section
28 129000) of Part 6 of Division 107.

29 (B) The district is in default of its loan obligations, as
30 determined by the Office of Statewide Health Planning and
31 Development.

32 (C) The Office of Statewide Health Planning and Development
33 and the district, in their best judgment, agree that the transfer of
34 some or all of the assets of the district to a nonprofit corporation
35 or corporations is necessary to cure the default, and will obviate
36 the need for foreclosure. This cure of default provision shall be
37 applicable prior to the office foreclosing on district hospital assets.
38 After the office has foreclosed on district hospital assets, or
39 otherwise taken possession in accordance with law, the office may

1 exercise all of its powers to deal with and dispose of hospital
2 property.

3 (D) The transfer and all arrangements necessary thereto are
4 discussed in advance of the transfer in at least one properly noticed
5 open and public meeting in compliance with Section 32106 and the
6 Ralph M. Brown Act (Chapter 9 (commencing with Section
7 54950) of Part 1 of Division 2 of Title 5 of the Government Code).
8 The meeting referred to in this paragraph shall be noticed and held
9 within 90 days of notice in writing to the district by the office of
10 an event of default. If the meeting is not held within this 90-day
11 period, the district shall be deemed to have waived this
12 requirement to have a meeting.

13 (11) If a transfer under paragraph (10) is a lease, the lease shall
14 provide that the assets shall revert to the district at the conclusion
15 of the leasehold interest. If the transfer is a sale, the proceeds shall
16 be used first to retire the obligation insured by the office, then to
17 retire any other debts of the district. After providing for debts, any
18 remaining funds shall revert to the district.

19 (q) To contract for bond insurance, letters of credit,
20 remarketing services, and other forms of credit enhancement and
21 liquidity support for its bonds, notes, and other indebtedness and
22 to enter into reimbursement agreements, monitoring agreements,
23 remarketing agreements, and similar ancillary contracts in
24 connection therewith.

25 (r) To establish, maintain, operate, participate in, or manage
26 capitated health care service plans, health maintenance
27 organizations, preferred provider organizations, and other
28 managed health care systems and programs properly licensed by
29 the Department of Insurance or the Department of Managed Care,
30 at any location within or without the district for the benefit of
31 residents of communities served by the district. However, that
32 activity shall not be deemed to result in, or constitute, the giving
33 or lending of the district's credit, assets, surpluses, cash, or
34 tangible goods to, or in aid of, any person, association, or
35 corporation in violation of Section 6 of Article XVI of the
36 California Constitution.

37 Nothing in this section shall be construed to authorize activities
38 that corporations and other artificial legal entities are prohibited
39 from conducting by Section 2400 of the Business and Professions
40 Code.

1 Any agreement to provide health care coverage that is a health
2 care service plan, as defined in subdivision (f) of Section 1345,
3 shall be subject to Chapter 2.2 (commencing with Section 1340)
4 of Division 2, unless exempted pursuant to Section 1343 or
5 1349.2.

6 A district shall not provide health care coverage for any
7 employee of an employer operating within the communities
8 served by the district, unless the Legislature specifically
9 authorizes, or has authorized in this section or elsewhere, the
10 coverage.

11 Nothing in this section shall be construed to authorize any
12 district to contribute its facilities to any joint venture that could
13 result in transfer of the facilities from district ownership.

14 (s) To provide health care coverage to members of the district's
15 medical staff, employees of the medical staff members, and the
16 dependents of both groups, on a self-pay basis.

17 (t) This section shall become operative on January 1, 2008.

18 SEC. 138. Section 33331.5 of the Health and Safety Code is
19 repealed.

20 ~~33331.5. Any redevelopment plan for a project area meeting~~
21 ~~the criteria specified in subdivision (e) of Section 33032 shall be~~
22 ~~consistent with the environmental threshold carrying capacities~~
23 ~~established by the regional plan adopted by the Tahoe Regional~~
24 ~~Planning Agency in accordance with the Tahoe Regional Planning~~
25 ~~Compact set forth in Section 66801 of the Government Code and~~
26 ~~the remedial programs adopted by the agency for the attainment~~
27 ~~of that regional plan.~~

28 SEC. 139. Section 33334.2 of the Health and Safety Code, as
29 amended by Section 2.2 of Chapter 738 of the Statutes of 2001, is
30 amended to read:

31 33334.2. (a) Not less than 20 percent of all taxes that are
32 allocated to the agency pursuant to Section 33670 shall be used by
33 the agency for the purposes of increasing, improving, and
34 preserving the community's supply of low- and moderate-income
35 housing available at affordable housing cost, as defined by
36 Sections 33334.22 and 50052.5, to persons and families of low or
37 moderate income, as defined in Section 50093, and very low
38 income households, as defined in Section 50105, that is occupied
39 by these persons and families, unless one of the following findings
40 is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households, in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(2) (A) That some stated percentage less than 20 percent of the taxes that are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low- or moderate-income and very low income households, and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that a percentage of less than 20 percent will be sufficient to meet the community's need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is



1 consistent with the planning agency's annual report to the
2 legislative body on implementation of the housing element
3 required by subdivision (b) of Section 65400 of the Government
4 Code. No agency of a charter city shall make this finding unless
5 the planning agency submits the report pursuant to subdivision (b)
6 of Section 65400 of the Government Code. This finding shall not
7 take effect until the agency has complied with subdivision (b)-~~of~~
8 ~~this section.~~

9 (C) For purposes of making the findings specified in this
10 paragraph and paragraph (1), the housing element of the general
11 plan of a city or county shall be current, shall have been submitted
12 to the Department of Housing and Community Development
13 within the applicable time period, and shall be in compliance with
14 Article 10.6 (commencing with Section 65580) of Chapter 3 of
15 Division 1 of Title 7 of the Government Code.

16 (3) (A) That the community is making a substantial effort to
17 meet its existing and projected housing needs, including its share
18 of the regional housing needs, with respect to persons and families
19 of low and moderate income, particularly very low income
20 households, as identified in the housing element of the
21 community's general plan required by Article 10.6 (commencing
22 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
23 Government Code, and that this effort, consisting of direct
24 financial contributions of local funds used to increase and improve
25 the supply of housing affordable to persons and families of low or
26 moderate income and very low income households that is occupied
27 by these persons and families, is equivalent in impact to the funds
28 otherwise required to be set aside pursuant to this section. In
29 addition to any other local funds, these direct financial
30 contributions may include federal or state grants paid directly to
31 a community and which the community has the discretion of using
32 for the purposes for which moneys in the Low and Moderate
33 Income Housing Fund may be used. The legislative body shall
34 consider the need that can be reasonably foreseen because of
35 displacement of persons and families of low or moderate income
36 or very low income households from within, or adjacent to, the
37 project area, because of increased employment opportunities, or
38 because of any other direct or indirect result of implementation of
39 the redevelopment plan. No finding under this subdivision may be
40 made until the community has provided or ensured the availability



1 of replacement dwelling units as defined in Section 33411.2 and
2 until it has complied with Article 9 (commencing with Section
3 33410).

4 (B) In making the determination that other financial
5 contributions are equivalent in impact pursuant to this subdivision,
6 the agency shall include only those financial contributions that are
7 directly related to programs or activities authorized under
8 subdivision (e) ~~of this section~~.

9 (C) The authority for making the finding specified in this
10 paragraph shall expire on June 30, 1993, except that the expiration
11 shall not be deemed to impair contractual obligations to
12 bondholders or private entities incurred prior to May 1, 1991, and
13 made in reliance on this paragraph. Agencies that make this
14 finding after June 30, 1993, shall show evidence that the agency
15 entered into the specific contractual obligation with the specific
16 intention of making a finding under this paragraph in order to
17 provide sufficient revenues to pay off the indebtedness.

18 (b) Within 10 days following the making of a finding under
19 either paragraph (1) or (2) of subdivision (a), the agency shall send
20 the department a copy of the finding, including the factual
21 information supporting the finding and other factual information
22 in the housing element that demonstrates that either (1) the
23 community does not need to increase, improve, or preserve the
24 supply of housing for low- and moderate-income households,
25 including very low income households, or (2) a percentage less
26 than 20 percent will be sufficient to meet the community's need to
27 improve, increase, and preserve the supply of housing for low- and
28 moderate-income households, including very low income
29 households. Within 10 days following the making of a finding
30 under paragraph (3) of subdivision (a), the agency shall send the
31 department a copy of the finding, including the factual information
32 supporting the finding that the community is making a substantial
33 effort to meet its existing and projected housing needs. Agencies
34 that make this finding after June 30, 1993, shall also submit
35 evidence to the department of its contractual obligations with
36 bondholders or private entities incurred prior to May 1, 1991, and
37 made in reliance on this finding.

38 (c) In any litigation to challenge or attack a finding made under
39 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
40 upon the agency to establish that the finding is supported by

1 substantial evidence in light of the entire record before the agency.
2 If an agency is determined by a court to have knowingly
3 misrepresented any material facts regarding the community's
4 share of its regional housing need for low- and moderate-income
5 housing, including very low income households, or the
6 community's production record in meeting its share of the regional
7 housing need pursuant to the report required by subdivision (b) of
8 Section 65400 of the Government Code, the agency shall be liable
9 for all court costs and plaintiff's attorney's fees, and shall be
10 required to allocate not less than 25 percent of the agency's tax
11 increment revenues to its Low and Moderate Income Housing
12 Fund in each year thereafter.

13 (d) Nothing in this section shall be construed as relieving any
14 other public entity or entity with the power of eminent domain of
15 any legal obligations for replacement or relocation housing arising
16 out of its activities.

17 (e) In carrying out the purposes of this section, the agency may
18 exercise any or all of its powers for the construction, rehabilitation,
19 or preservation of affordable housing for very low, low-, and
20 moderate-income persons or families, including the following:

21 (1) Acquire real property or building sites subject to Section
22 33334.16.

23 (2) Improve real property or building sites with onsite or offsite
24 improvements, but only if both (A) the improvements are part of
25 the new construction or rehabilitation of affordable housing units
26 for low- or moderate-income persons that are directly benefited by
27 the improvements, and are a reasonable and fundamental
28 component of the housing units, and (B) the agency requires that
29 the units remain available at affordable housing cost to persons and
30 families of very low, low, or moderate income, and are occupied
31 by these persons and families, for the same time period and in the
32 same manner as provided in subdivision (c) and paragraph (2) of
33 subdivision (f) of Section 33334.3.

34 If the newly constructed or rehabilitated housing units are part
35 of a larger project and the agency improves or pays for onsite or
36 offsite improvements pursuant to the authority in this subdivision,
37 the agency shall pay only a portion of the total cost of the onsite
38 or offsite ~~improvement~~ improvements. The maximum percentage
39 of the total cost of the ~~improvement~~ improvements paid for by the
40 agency shall be determined by dividing the number of housing

1 units that are affordable to low- or moderate-income persons by
2 the total number of housing units, if the project is a housing
3 project, or by dividing the cost of the affordable housing units by
4 the total cost of the project, if the project is not a housing project.

5 (3) Donate real property to private or public persons or entities.

6 (4) Finance insurance premiums pursuant to Section 33136.

7 (5) Construct buildings or structures.

8 (6) Acquire buildings or structures.

9 (7) Rehabilitate buildings or structures.

10 (8) Provide subsidies to, or for the benefit of, very low income
11 households, as defined by Section 50105, lower income
12 households, as defined by Section 50079.5, or persons and
13 families of low or moderate income, as defined by Section 50093,
14 to the extent those households cannot obtain housing at affordable
15 costs on the open market. Housing units available on the open
16 market are those units developed without direct government
17 subsidies.

18 (9) Develop plans, pay principal and interest on bonds, loans,
19 advances, or other indebtedness, or pay financing or carrying
20 charges.

21 (10) Maintain the community's supply of mobilehomes.

22 (11) Preserve the availability to lower income households of
23 affordable housing units in housing developments that are assisted
24 or subsidized by public entities and that are threatened with
25 imminent conversion to market rates.

26 (f) The agency may use these funds to meet, in whole or in part,
27 the replacement housing provisions in Section 33413. However,
28 nothing in this section shall be construed as limiting in any way the
29 requirements of that section.

30 (g) (1) The agency may use these funds inside or outside the
31 project area. The agency may only use these funds outside the
32 project area upon a resolution of the agency and the legislative
33 body that the use will be of benefit to the project. The
34 determination by the agency and the legislative body shall be final
35 and conclusive as to the issue of benefit to the project area. The
36 Legislature finds and declares that the provision of replacement
37 housing pursuant to Section 33413 is always of benefit to a project.
38 Unless the legislative body finds, before the redevelopment plan
39 is adopted, that the provision of low- and moderate-income
40 housing outside the project area will be of benefit to the project,

1 the project area shall include property suitable for low- and
2 moderate-income housing.

3 (2) (A) The Contra Costa County Redevelopment Agency
4 may use these funds anywhere within the unincorporated territory,
5 or within the incorporated limits of the City of Walnut Creek on
6 sites contiguous to the Pleasant Hill BART Station Area
7 Redevelopment Project area. The agency may only use these funds
8 outside the project area upon a resolution of the agency and board
9 of supervisors determining that the use will be of benefit to the
10 project area. In addition, the agency may use these funds within the
11 incorporated limits of the City of Walnut Creek only if the agency
12 and the board of supervisors find all of the following:

13 (i) Both the County of Contra Costa and the City of Walnut
14 Creek have adopted and are implementing complete and current
15 housing elements of their general plans that the department has
16 determined to be in compliance with the requirements of Article
17 10.6 (commencing with Section 65580) of Chapter 3 of Division
18 1 of Title 7 of the Government Code.

19 (ii) The development to be funded shall not result in any
20 residential displacement from the site where the development is to
21 be built.

22 (iii) The development to be funded shall not be constructed in
23 an area that currently has more than 50 percent of its population
24 comprised of racial minorities or low-income families.

25 (iv) The development to be funded shall allow construction of
26 affordable housing closer to a rapid transit station than could be
27 constructed in the unincorporated territory outside the Pleasant
28 Hill BART Station Area Redevelopment Project.

29 (B) If the agency uses these funds within the incorporated
30 limits of the City of Walnut Creek, all of the following
31 requirements shall apply:

32 (i) The funds shall be used only for the acquisition of land for,
33 and the design and construction of, the development of housing
34 containing units affordable to low- and moderate-income persons.

35 (ii) If less than all the units in the development are affordable
36 to low- or moderate-income persons, any agency assistance shall
37 not exceed the amount needed to make the housing affordable to
38 low- or moderate-income persons.



1 (iii) The units in the development that are affordable to low- or
2 moderate-income persons shall remain affordable for a period of
3 at least 55 years.

4 (iv) The agency and the City of Walnut Creek shall determine,
5 if applicable, whether Article XXXIV of the California
6 Constitution permits the development.

7 (h) The Legislature finds and declares that expenditures or
8 obligations incurred by the agency pursuant to this section shall
9 constitute an indebtedness of the project.

10 (i) The requirements of this section shall only apply to taxes
11 allocated to a redevelopment agency for which a final
12 redevelopment plan is adopted on or after January 1, 1977, or for
13 any area that is added to a project by an amendment to a
14 redevelopment plan, ~~which~~ and that amendment is adopted on or
15 after the effective date of this section. An agency may, by
16 resolution, elect to make all or part of the requirements of this
17 section applicable to any redevelopment project for which a
18 redevelopment plan was adopted prior to January 1, 1977, subject
19 to any indebtedness incurred prior to the election.

20 (j) This section shall remain in effect only until January 1,
21 2005, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2005, deletes or extends that date.

23 SEC. 140. Section 33334.2 of the Health and Safety Code, as
24 added by Section 2.4 of Chapter 738 of the Statutes of 2001, is
25 amended to read:

26 33334.2. (a) Not less than 20 percent of all taxes that are
27 allocated to the agency pursuant to Section 33670 shall be used by
28 the agency for the purposes of increasing, improving, and
29 preserving the community's supply of low- and moderate-income
30 housing available at affordable housing cost, as defined by Section
31 50052.5, to persons and families of low or moderate income, as
32 defined in Section 50093, and very low income households, as
33 defined in Section 50105, that is occupied by these persons and
34 families, unless one of the following findings is made annually by
35 resolution:

36 (1) (A) That no need exists in the community to improve,
37 increase, or preserve the supply of low- and moderate-income
38 housing, including housing for very low income households, in a
39 manner that would benefit the project area and that this finding is
40 consistent with the housing element of the community's general

1 plan required by Article 10.6 (commencing with Section 65580)
2 of Chapter 3 of Division 1 of Title 7 of the Government Code,
3 including its share of the regional housing needs of very low
4 income households and persons and families of low or moderate
5 income.

6 (B) This finding shall only be made if the housing element of
7 the community's general plan demonstrates that the community
8 does not have a need to improve, increase, or preserve the supply
9 of low- and moderate-income housing available at affordable
10 housing cost to persons and families of low or moderate income
11 and to very low income households. This finding shall only be
12 made if it is consistent with the planning agency's annual report to
13 the legislative body on implementation of the housing element
14 required by subdivision (b) of Section 65400 of the Government
15 Code. No agency of a charter city shall make this finding unless
16 the planning agency submits the report pursuant to subdivision (b)
17 of Section 65400 of the Government Code. This finding shall not
18 take effect until the agency has complied with subdivision (b) of
19 this section.

20 (2) (A) That some stated percentage less than 20 percent of the
21 taxes that are allocated to the agency pursuant to Section 33670 is
22 sufficient to meet the housing needs of the community, including
23 its share of the regional housing needs of persons and families of
24 low- or moderate-income and very low income households, and
25 that this finding is consistent with the housing element of the
26 community's general plan required by Article 10.6 (commencing
27 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
28 Government Code.

29 (B) This finding shall only be made if the housing element of
30 the community's general plan demonstrates that a percentage of
31 less than 20 percent will be sufficient to meet the community's
32 need to improve, increase, or preserve the supply of low- and
33 moderate-income housing available at affordable housing cost to
34 persons and families of low or moderate income and to very low
35 income households. This finding shall only be made if it is
36 consistent with the planning agency's annual report to the
37 legislative body on implementation of the housing element
38 required by subdivision (b) of Section 65400 of the Government
39 Code. No agency of a charter city shall make this finding unless
40 the planning agency submits the report pursuant to subdivision (b)



1 of Section 65400 of the Government Code. This finding shall not
2 take effect until the agency has complied with subdivision (b) of
3 this section.

4 (C) For purposes of making the findings specified in this
5 paragraph and paragraph (1), the housing element of the general
6 plan of a city or county shall be current, shall have been submitted
7 to the Department of Housing and Community Development
8 within the applicable time period, and shall be in compliance with
9 Article 10.6 (commencing with Section 65580) of Chapter 3 of
10 Division 1 of Title 7 of the Government Code.

11 (3) (A) That the community is making a substantial effort to
12 meet its existing and projected housing needs, including its share
13 of the regional housing needs, with respect to persons and families
14 of low and moderate income, particularly very low income
15 households, as identified in the housing element of the
16 community's general plan required by Article 10.6 (commencing
17 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
18 Government Code, and that this effort, consisting of direct
19 financial contributions of local funds used to increase and improve
20 the supply of housing affordable to persons and families of low or
21 moderate income and very low income households that is occupied
22 by these persons and families, is equivalent in impact to the funds
23 otherwise required to be set aside pursuant to this section. In
24 addition to any other local funds, these direct financial
25 contributions may include federal or state grants paid directly to
26 a community and which the community has the discretion of using
27 for the purposes for which moneys in the Low and Moderate
28 Income Housing Fund may be used. The legislative body shall
29 consider the need that can be reasonably foreseen because of
30 displacement of persons and families of low or moderate income
31 or very low income households from within, or adjacent to, the
32 project area, because of increased employment opportunities, or
33 because of any other direct or indirect result of implementation of
34 the redevelopment plan. No finding under this subdivision may be
35 made until the community has provided or ensured the availability
36 of replacement dwelling units as defined in Section 33411.2 and
37 until it has complied with Article 9 (commencing with Section
38 33410).

39 (B) In making the determination that other financial
40 contributions are equivalent in impact pursuant to this subdivision,



1 the agency shall include only those financial contributions that are
2 directly related to programs or activities authorized under
3 subdivision (e) ~~of this section~~.

4 (C) The authority for making the finding specified in this
5 paragraph shall expire on June 30, 1993, except that the expiration
6 shall not be deemed to impair contractual obligations to
7 bondholders or private entities incurred prior to May 1, 1991, and
8 made in reliance on the provisions of this paragraph. Agencies that
9 make this finding after June 30, 1993, shall show evidence that the
10 agency entered into the specific contractual obligation with the
11 specific intention of making a finding under this paragraph in
12 order to provide sufficient revenues to pay off the indebtedness.

13 (b) Within 10 days following the making of a finding under
14 either paragraph (1) or (2) of subdivision (a), the agency shall send
15 the Department of Housing and Community Development a copy
16 of the finding, including the factual information supporting the
17 finding and other factual information in the housing element that
18 demonstrates that either (1) the community does not need to
19 increase, improve, or preserve the supply of housing for low- and
20 moderate-income households, including very low income
21 households, or (2) a percentage less than 20 percent will be
22 sufficient to meet the community's need to improve, increase, and
23 preserve the supply of housing for low- and moderate-income
24 households, including very low income households. Within 10
25 days following the making of a finding under paragraph (3) of
26 subdivision (a), the agency shall send the Department of Housing
27 and Community Development a copy of the finding, including the
28 factual information supporting the finding that the community is
29 making a substantial effort to meet its existing and projected
30 housing needs. Agencies that make this finding after June 30,
31 1993, shall also submit evidence to the department of its
32 contractual obligations with bondholders or private entities
33 incurred prior to May 1, 1991, and made in reliance on this finding.

34 (c) In any litigation to challenge or attack a finding made under
35 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
36 upon the agency to establish that the finding is supported by
37 substantial evidence in light of the entire record before the agency.
38 If an agency is determined by a court to have knowingly
39 misrepresented any material facts regarding the community's
40 share of its regional housing need for low- and moderate-income

housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for very low, low-, and moderate-income persons or families, including the following:

(1) Acquire real property or building sites subject to Section 33334.16.

(2) Improve real property or building sites with onsite or offsite improvements, but only if both (A) the improvements are part of the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly benefited by the improvements, and are a reasonable and fundamental component of the housing units, and (B) the agency requires that the units remain available at affordable housing cost to persons and families of very low, low, or moderate income, and are occupied by these persons and families, for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 33334.3.

If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite ~~improvement~~ improvements. The maximum percentage of the total cost of the ~~improvement~~ improvements paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

- 1 (3) Donate real property to private or public persons or entities.
- 2 (4) Finance insurance premiums pursuant to Section 33136.
- 3 (5) Construct buildings or structures.
- 4 (6) Acquire buildings or structures.
- 5 (7) Rehabilitate buildings or structures.
- 6 (8) Provide subsidies to, or for the benefit of, very low income
- 7 households, as defined by Section 50105, lower income
- 8 households, as defined by Section 50079.5, or persons and
- 9 families of low or moderate income, as defined by Section 50093,
- 10 to the extent those households cannot obtain housing at affordable
- 11 costs on the open market. Housing units available on the open
- 12 market are those units developed without direct government
- 13 subsidies.
- 14 (9) Develop plans, pay principal and interest on bonds, loans,
- 15 advances, or other indebtedness, or pay financing or carrying
- 16 charges.
- 17 (10) Maintain the community's supply of mobilehomes.
- 18 (11) Preserve the availability to lower income households of
- 19 affordable housing units in housing developments that are assisted
- 20 or subsidized by public entities and that are threatened with
- 21 imminent conversion to market rates.
- 22 (f) The agency may use these funds to meet, in whole or in part,
- 23 the replacement housing provisions in Section 33413. However,
- 24 nothing in this section shall be construed as limiting in any way the
- 25 requirements of that section.
- 26 (g) (1) The agency may use these funds inside or outside the
- 27 project area. The agency may only use these funds outside the
- 28 project area upon a resolution of the agency and the legislative
- 29 body that the use will be of benefit to the project. The
- 30 determination by the agency and the legislative body shall be final
- 31 and conclusive as to the issue of benefit to the project area. The
- 32 Legislature finds and declares that the provision of replacement
- 33 housing pursuant to Section 33413 is always of benefit to a project.
- 34 Unless the legislative body finds, before the redevelopment plan
- 35 is adopted, that the provision of low- and moderate-income
- 36 housing outside the project area will be of benefit to the project,
- 37 the project area shall include property suitable for low- and
- 38 moderate-income housing.
- 39 (2) (A) The Contra Costa County Redevelopment Agency
- 40 may use these funds anywhere within the unincorporated territory,



1 or within the incorporated limits of the City of Walnut Creek on
2 sites contiguous to the Pleasant Hill BART Station Area
3 Redevelopment Project area. The agency may only use these funds
4 outside the project area upon a resolution of the agency and board
5 of supervisors determining that the use will be of benefit to the
6 project area. In addition, the agency may use these funds within the
7 incorporated limits of the City of Walnut Creek only if the agency
8 and the board of supervisors find all of the following:

9 (i) Both the County of Contra Costa and the City of Walnut
10 Creek have adopted and are implementing complete and current
11 housing elements of their general plans that the Department of
12 Housing and Community Development has determined to be in
13 compliance with the requirements of Article 10.6 (commencing
14 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
15 Government Code.

16 (ii) The development to be funded shall not result in any
17 residential displacement from the site where the development is to
18 be built.

19 (iii) The development to be funded shall not be constructed in
20 an area that currently has more than 50 percent of its population
21 comprised of racial minorities or low-income families.

22 (iv) The development to be funded shall allow construction of
23 affordable housing closer to a rapid transit station than could be
24 constructed in the unincorporated territory outside the Pleasant
25 Hill BART Station Area Redevelopment Project.

26 (B) If the agency uses these funds within the incorporated
27 limits of the City of Walnut Creek, all of the following
28 requirements shall apply:

29 (i) The funds shall be used only for the acquisition of land for,
30 and the design and construction of, the development of housing
31 containing units affordable to low- and moderate-income persons.

32 (ii) If less than all the units in the development are affordable
33 to low- or moderate-income persons, any agency assistance shall
34 not exceed the amount needed to make the housing affordable to
35 low- or moderate-income persons.

36 (iii) The units in the development that are affordable to low- or
37 moderate-income persons shall remain affordable for a period of
38 at least 55 years.

(iv) The agency and the City of Walnut Creek shall determine, if applicable, whether Article XXXIV of the California Constitution permits the development.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area that is added to a project by an amendment to a redevelopment plan, ~~which~~ *and that* amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(j) This section shall become operative on January 1, 2005.

SEC. 141. Section 33334.22 of the Health and Safety Code is amended to read:

33334.22. (a) The Legislature finds and declares that in order to avoid serious economic hardships and accompanying blight, it is necessary to enact this section, which shall apply only within Santa Cruz County, and which is enacted for the purpose of providing housing assistance to very low, lower, and moderate-income households.

(b) Notwithstanding Section 50052.5, any redevelopment agency within Santa Cruz County may make assistance available from its ~~low- and moderate-income housing fund~~ *Low and Moderate Income Housing Fund* directly to a homebuyer for the purchase of an owner-occupied home, and for purposes of that assistance and this section, “affordable housing cost” shall not exceed the following:

(1) For very low income households, the product of 40 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 40 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In

1 addition, for any lower income household that has a gross income
2 that equals or exceeds 70 percent of the area median income
3 adjusted for family size, it shall be optional for any state or local
4 funding agency to require that the affordable housing cost not
5 exceed 40 percent of the gross income of the household.

6 (3) For ~~moderate-income~~ *moderate-income* households,
7 affordable housing cost shall not exceed the product of 40 percent
8 times 110 percent of the area median income adjusted for family
9 size appropriate for the unit. In addition, for any moderate-income
10 household that has a gross income that exceeds 110 percent of the
11 area median income adjusted for family size, it shall be optional
12 for any state or local funding agency to require that affordable
13 housing cost not exceed 40 percent of the gross income of the
14 household.

15 (c) Any agency in Santa Cruz County that provides assistance
16 pursuant to this section shall include in the annual report to the
17 Controller, pursuant to Sections 33080 and 33080.1, all of the
18 following information:

19 (1) The sales prices of homes purchased with assistance from
20 the agency's ~~low and moderate income housing fund~~ *Low and*
21 *Moderate Income Housing Fund* for each year from 2000 to 2004,
22 inclusive.

23 (2) The sales prices of homes purchased and rehabilitated with
24 assistance from the agency's ~~low and moderate income housing~~
25 ~~fund~~ *Low and Moderate Income Housing Fund* for each year from
26 2000 to 2004, inclusive.

27 (3) The incomes, and percentage of income paid for housing
28 costs, of all households that purchased, and that purchased and
29 rehabilitated, homes with assistance from the agency's ~~low and~~
30 ~~moderate income housing fund~~ *Low and Moderate Income*
31 *Housing Fund* for each year from 2000 to 2004, inclusive.

32 (d) Except as provided in subdivision (b), all provisions of
33 Section 50052.5, including any definitions, requirements,
34 standards, and regulations adopted to implement those provisions,
35 shall apply to this section.

36 (e) This section shall remain in effect only until January 1,
37 2005, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 1, 2005, deletes or extends that date.

39 SEC. 142. Section 33368 of the Health and Safety Code is
40 amended to read:

1 33368. The decision of the legislative body shall be final and
2 conclusive, and it shall thereafter be conclusively presumed that
3 the project area is a blighted area as defined by ~~Sections 33031 or~~
4 ~~33032~~ *Section 33031* and that all prior proceedings have been duly
5 and regularly taken.

6 This section shall not apply in any action questioning the
7 validity of any redevelopment plan, or the adoption or approval of
8 such plan, or any of the findings or determinations of the agency
9 or the legislative body in connection with such plan brought
10 pursuant to Section 33501 within the time limits prescribed by
11 Section 33500.

12 SEC. 143. Section 33430 of the Health and Safety Code is
13 amended to read:

14 33430. ~~(a) Except as otherwise provided in subdivision (b),~~
15 ~~an~~ An agency may, within the survey area or for purposes of
16 redevelopment, sell, lease, for a period not to exceed 99 years,
17 exchange, subdivide, transfer, assign, pledge, encumber by
18 mortgage, deed of trust, or otherwise, or otherwise dispose of any
19 real or personal property or any interest in property.

20 ~~(b) Any interest acquired by an agency in property described in~~
21 ~~Section 33032.1 shall be used only for public purposes.~~

22 SEC. 144. Section 41705 of the Health and Safety Code, as
23 amended by Section 1 of Chapter 424 of the Statutes of 2001, is
24 amended to read:

25 41705. (a) Section 41700 does not apply to odors emanating
26 from any of the following:

27 (1) Agricultural operations necessary for the growing of crops
28 or the raising of fowl or animals.

29 (2) Operations that produce, manufacture, or handle compost,
30 as defined in Section 40116 of the Public Resources Code, if the
31 odors emanate directly from the compost facility or operations.

32 (3) Operations that compost green material or animal waste
33 products derived from agricultural operations, and that return
34 similar amounts of the compost produced to that same agricultural
35 operations source, or to an agricultural operations source owned
36 or leased by the owner, parent company, or subsidiary conducting
37 the composting operation. The composting operation may produce
38 an incidental amount of compost not exceeding 2,500 cubic yards
39 of compost, which may be given away or sold annually.

(b) If a district receives a complaint pertaining to an odor emanating from a compost operation exempt from Section 41700 pursuant to paragraph (2) or (3) of subdivision (a), that is subject to the jurisdiction of an enforcement agency under Division 30 (commencing with Section 40000) of the Public Resources Code, the district shall, within 24 hours or by the next working day, refer the complaint to the enforcement agency.

(c) This section shall become inoperative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 *of the Public Resources Code* on or prior to that date.

SEC. 145. Section 41705 of the Health and Safety Code, as amended by Section 2 of Chapter 424 of the Statutes of 2001, is amended to read:

41705. (a) Section 41700 shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(b) This section shall become operative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 *of the Public Resources Code* on or prior to that date.

SEC. 146. Section 42801.1 of the Health and Safety Code is amended to read:

42801.1. For purposes of this chapter, the following terms have the following meanings:

(a) “Annual emissions results” means the participant’s applicable data on the release of greenhouse gas emissions, both direct and indirect, from one particular year.

(b) “Baseline” means a datum against which to measure greenhouse gas emissions performance over time, usually annual emissions in a selected base year. For the purposes of this ~~subdivision~~ *chapter*, the baseline shall start on or after January 1, 1990.

(c) “Certification” means the determination of whether a given participant’s greenhouse gas emissions inventory (either baseline or annual result) has met a minimum quality standard and

1 complied with an appropriate set of registry-approved procedures
2 and protocols for submitting emissions inventory information.
3 The process for certification of emissions results will be specified
4 within the procedures and protocols approved for
5 industry-specific emissions inventory reporting, and may involve
6 a range of options depending upon the nature of the emissions,
7 complexity of a company's facilities and operations, or both, and
8 the procedures deemed necessary by the registry board to validate
9 a participant's emissions information.

10 (d) "De minimis emissions" means emissions that are below
11 a certain threshold, when summed across all applicable sources of
12 the participating entity. The State Energy Resources Conservation
13 and Development Commission shall recommend to the registry for
14 adoption a threshold emissions level for each type of greenhouse
15 gas emission that shall be considered de minimus.

16 (e) "Emissions" means the release of greenhouse gases into
17 the atmosphere.

18 (f) (1) "Emissions inventory" means an accounting of the
19 amount of greenhouse gases discharged into the atmosphere. It is
20 generally characterized by all of the following factors:

21 (A) The chemical or physical identity of the pollutants
22 included.

23 (B) The geographic area covered.

24 (C) The institutional entities covered.

25 (D) The time period over which emissions are estimated.

26 (E) The types of activities that cause emissions.

27 (2) An emissions inventory shall include sufficient
28 documentation and supporting data to make transparent the
29 underlying assumptions and calculations for all of the reported
30 results.

31 (g) "Greenhouse gases" includes all of the following gases:
32 carbon dioxide, methane, nitrous oxide, ~~hydrofluorocarbons~~
33 *hydrofluorocarbons*, perfluorocarbons, and sulfur hexafluoride.

34 (h) "Material" means any emission of greenhouse gas that is
35 not de minimis.

36 SEC. 147. Section 42840 of the Health and Safety Code is
37 amended to read:

38 42840. (a) Participants shall utilize the following reporting
39 procedures to establish a greenhouse gas emissions baseline;
40 ~~participants~~. *Participants* shall report their certified emissions for

1 the most recent year for which they have complete energy use and
2 fuel consumption data as specified in this chapter. Participants that
3 have complete energy use or fuel consumption data for earlier
4 years that can be certified may establish their baseline as any year
5 beginning on or after January 1, 1990. After establishing baseline
6 emissions, participants shall report their certified emissions results
7 in each subsequent year in order to show changes in emissions
8 levels with respect to their baseline year. Participants may report
9 annual emission results without establishing an emissions
10 baseline. Participants shall also report using industry-specific
11 metrics once the registry adopts an industry-specific metric for the
12 industry in question.

13 (b) (1) Participants shall report direct emissions and indirect
14 emissions separately. Direct emissions are those emissions from
15 applicable sources that are under management control of a
16 participating entity, including onsite combustion, fugitive
17 noncombustion emissions, and vehicles owned and operated by
18 the participant. Indirect emissions that are required to be reported
19 by participants are those emissions embodied in net electricity and
20 steam imports, including offsite steam generation and district
21 heating and cooling. Participants are encouraged, but are not
22 required, to report other indirect emissions based on guidance that
23 is adopted by the registry.

24 (2) On or after January 1, 2004, the registry board, in
25 coordination with the State Energy Resources Conservation and
26 Development Commission, may revise the scope of indirect
27 emission source types that are required to be reported by
28 participants specified in paragraph (1) after a public workshop and
29 review process conducted by the registry if all of the following
30 requirements have been met.

31 (A) The State Energy Resources Conservation and
32 Development Commission has approved that revision at a public
33 hearing following a public workshop.

34 (B) Prior to approving that proposed revision, the commission
35 determines all of the following:

36 (i) A reasonable and ~~generally-accepted~~ *generally accepted*
37 methodology exists that will enable participants to accurately
38 estimate and report the emissions for the indirect source type in
39 question.



1 (ii) The proposed revision will not create an unreasonable
2 reporting burden on the participants.

3 (iii) The proposed revision is necessary to achieve the purposes
4 listed in Section 42810.

5 (C) The registry, at any time it acts to revise the scope of
6 indirect emission source types that are required to be reported by
7 participants, establishes a timeframe for the ~~phase in~~ *phase in* of the
8 revised scope so that participants shall have at least four months
9 before the start of the next annual reporting cycle that incorporates
10 the revised scope.

11 (3) In cases of joint ownership, emissions are reported by the
12 managing entity, unless the owners decide to report emissions on
13 a pro rata basis.

14 (4) Participants shall not be required to report emissions of any
15 greenhouse gas that is de minimis in quantity, when summed up
16 across all applicable sources of the participating entity. The State
17 Energy Resources Conservation and Development Commission
18 shall recommend to the registry a definition of de minimis
19 emissions that reasonably accounts for differences in the size,
20 activities, and sources of direct and indirect baseline emissions of
21 participants, and is consistent with the goals and intent of
22 subdivision (f) of Section 42801.

23 (c) (1) All participants shall report direct and indirect carbon
24 dioxide (CO₂) emissions that are material to their operations.

25 (2) The registry shall also encourage participants to monitor
26 and report emissions of the following gases:

27 (A) Hydrofluorocarbons (HFCs).

28 (B) Methane (CH₄).

29 (C) Oxides of nitrogen (N₂O).

30 (D) Perfluorocarbons (PFCs).

31 (E) Sulfur hexafluoride (SF₆).

32 (3) The report of information specified in paragraph (2) is
33 optional for three years after a participant joins the registry. After
34 participating in the registry for a total of three years, participants
35 shall report emissions required by both paragraphs (1) and (2).

36 (4) Emissions of all gases under this subdivision shall be
37 reported in mass units.

38 (d) The basic unit of participation in the registry shall be an
39 entity in its entirety such as a corporation or other legally
40 constituted body, any city or county, and each state government

1 agency. The registry shall not record emissions baselines and
2 reductions for individual facilities or projects, except to the extent
3 they are included in an entity's emissions reporting.

4 (1) Corporations may report emissions baselines and annual
5 emissions results from subsidiaries if the parent corporation is
6 clearly defined.

7 (2) Participants shall report emissions from all of their
8 applicable sources in the state when they initially register.

9 (3) Participants may, and are encouraged to, at any time,
10 register emissions from all applicable sources based in the United
11 States, so long as this reporting meets all the other requirements
12 established by this chapter. Those participants with emissions in
13 other states that report California emissions only may not be able
14 to receive equal consideration for their emissions records in future
15 national or international regulatory regimes relating to greenhouse
16 gas emissions. In addition, participants with operations outside of
17 the United States are encouraged to register their total worldwide
18 emissions baselines and annual emissions results. Within three
19 years, the registry shall review and report to the Legislature with
20 a recommendation on whether the registry should require, rather
21 than encourage, participants to report all of their greenhouse gas
22 emissions in the United States, not just California emissions.

23 (4) To ensure that reported emissions reflect actual emissions,
24 participants that outsource production or services shall report
25 emissions associated with the outsourced activity, and remove
26 these emissions from their emissions baseline. The subcontracted
27 entity, if it voluntarily chooses to participate in the registry shall
28 report emissions associated with the outsourced activities it has
29 taken over. Participants shall attest at least once each year that the
30 entity has not outsourced any emissions, or that if it has, that all
31 emissions associated with the outsourced activity have been
32 reported and subtracted from the entity's baseline emissions.

33 (5) To prevent changes in vertical integration within
34 corporations from leading to apparent emissions reductions when
35 in fact no reductions have occurred, the registry shall treat
36 mergers, acquisitions, and divestitures as follows:

37 (A) The emissions baselines of any merged or acquired entity
38 shall be added together, and the registry shall treat the resulting
39 entity as if it had been one corporation from the beginning.

(B) In divestitures, the emissions baselines of the affected corporations shall be split, with the effect that the registry shall treat them as if they had been separate corporations from the beginning. If the divested corporation is purchased by another firm, the registry shall treat that purchase as a merger with the purchasing corporation. If the divested corporation remains a separate entity after the divestiture, its registry baseline shall reflect the emissions associated with the entity's operations before the divestiture. Corporations that divest operations may allocate certified emissions results achieved prior to the divestiture among the divesting and the divested entities, and the registry shall adjust their baselines accordingly.

(C) Any adjustments for changes in vertical integration shall be verified in the annual emissions certifications required for recordation of emissions results.

(6) If a participant changes from statewide to national reporting under this program, changes to its baseline will be treated in a similar manner as changes in vertical integration as described in paragraph (5).

(7) To ensure that reported emissions accurately reflect shifts in operations to or from other states, the registry shall adopt, in consultation with the State Energy Resources Conservation and Development Commission, at a public meeting and following at least one public workshop, reporting procedures for participants that choose to report greenhouse emissions on a statewide basis that require participants to show both of the following:

(A) Changes in a participant's operations, such as a facility startup or shutdown, that result in a significant and long-term shift of greenhouse gas emissions from California to other states or from other states to California.

(B) The corresponding change in the participant's baseline.

SEC. 148. Section 44265 of the Health and Safety Code is amended to read:

44265. (a) The grant program described in this chapter may be administered by a local air management district or air pollution control district on a voluntary basis, ~~provided that the district administers the program based upon the guidelines developed by the state board in conjunction with the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 44264.~~

1 (b) Any district that voluntarily administers this grant program
2 is authorized to provide grants from its own funding sources in an
3 amount of five hundred dollars (\$500) to one thousand dollars
4 (\$1,000) or more per year for each qualified zero-emission vehicle
5 registered within the boundaries of its territorial jurisdiction.

6 SEC. 149. Section 51452 of the Health and Safety Code is
7 amended to read:

8 51452. (a) The School Facilities Fee Assistance Fund is
9 hereby established in the State Treasury and, notwithstanding
10 Section 13340 of the Government Code, all money in the fund is
11 continuously appropriated to the Department of General Services
12 for the purposes of this chapter. All repayments of disbursed funds
13 pursuant to this chapter or any interest earned from the investment
14 in the Surplus Money Investment Fund or any other moneys
15 accruing to the fund from whatever source shall be returned to the
16 fund and ~~is~~ are available for allocation by the California Housing
17 Finance Agency to programs established pursuant to this chapter.

18 (b) The following amounts are hereby appropriated from the
19 General Fund to the School Facilities Fee Assistance Fund for
20 administrative costs and to make payments to purchasers of newly
21 constructed residential structures and housing sponsors of housing
22 developments pursuant to this chapter from that fund by fiscal year
23 as follows:

24 (1) Twenty million dollars (\$20,000,000) in the 1998–99 fiscal
25 year.

26 (2) Forty million dollars (\$40,000,000) in the 1999–2000 fiscal
27 year.

28 (3) Forty million dollars (\$40,000,000) in the 2000–01 fiscal
29 year.

30 (4) Forty million dollars (\$40,000,000) in the 2001–02 fiscal
31 year.

32 (c) The funds shall be distributed to each program in proportion
33 to the original total amounts available for each program as follows:

34 (1) Twenty-eight million dollars (\$28,000,000) shall be
35 available for the program set forth in paragraph (1) of subdivision
36 (a) of Section 51451, except that any funds not expended within
37 18 months of their appropriation and availability may also be
38 available for programs set forth in paragraphs (2) and (3) of
39 subdivision (a) of Section 51451.

(2) Twenty-eight million dollars (\$28,000,000) shall be available for the program set forth in paragraph (2) of subdivision (a) of Section 51451, except that any funds not expended within 18 months of their appropriation and availability may also be available for the program set forth in paragraph (3) of subdivision (a) of Section 51451.

(3) Fifty-two million dollars (\$52,000,000) shall be available for the program set forth in paragraph (3) of subdivision (a) of Section 51451.

(4) Fifty-two million dollars (\$52,000,000) shall be available for the program set forth in subdivision (b) of Section 51451.

(d) Reservations received on or after January 1, 2002, for participation in the programs authorized by Section 51451 shall not be honored by the California Housing Finance Agency. As of that date, any unobligated amounts remaining in the School Facilities Fee Assistance Fund after the transfer made pursuant to Item 1760-115-0101 of Section 2.00 of the Budget Act of 2001 (*Chapter 106 of the Statutes of 2001*) shall be transferred to the General Fund.

(e) Any right to receive repayments of assistance provided for by Section 51451 shall be an asset of the School Facilities Fee Assistance Fund. Any assistance provided for by Section 51451 that is reserved but not ultimately paid, or is repaid to the California Housing Finance Agency, shall be remitted to the Department of General Services for deposit into the General Fund.

SEC. 150. Section 104324.2 of the Health and Safety Code is amended to read:

104324.2. (a) On or before July 1, 2002, the Division of Environmental and Occupational Disease Control in the State Department of Health Services, in consultation with the Office of Environmental Health Hazard Assessment, shall create a working group of technical experts, including experts who have knowledge of the sensitivity and exposure of children, women of child-bearing age, seniors, and disparately affected populations to environmental hazards, to do all of the following:

(1) Develop possible approaches to establishing the EHSS, including an estimated cost for each approach.

(2) Prepare and submit a report to the State Department of Health Services~~and~~, the Office of Environmental Health Hazard Assessment, and appropriate legislative committees, by July 1,

2003, on the possible approaches to establishing the EHSS, including an estimated cost of each approach, and the recommended approach to establishing an EHSS for California.

(3) Develop the health and environmental measurements needed to do both of the following:

(A) Obtain an ongoing picture of the health of Californians.

(B) Establish a data base that may facilitate the examination of the relationship between chronic diseases, including birth defects, and the environment.

(b) The Regents of the University of California are requested to cooperate with the division and the office in creating the work group described in this section.

SEC. 151. Section 114090 of the Health and Safety Code is amended to read:

114090. (a) All utensils and equipment shall be scraped, cleaned, or sanitized as circumstances require.

(b) All food establishments in which food is prepared or in which multiservice kitchen utensils are used shall have a sink with at least three compartments with two integral metal drainboards. Additional drainage space that is not necessarily attached to the sink may be provided. The sink compartments and drainage facilities shall be large enough to accommodate the largest utensil or piece of equipment to be cleaned therein. A one-compartment or two-compartment sink that is in use on January 1, 1996, may be continued in use until replaced. The enforcement officer may approve the continued use of a one-compartment or two-compartment sink even upon replacement if the installation of a three-compartment sink would not be readily achievable and where other approved sanitation methods are used.

(c) All food establishments in which multiservice consumer utensils are used shall clean the utensils in one of the following ways:

(1) Handwashing of utensils using a three-compartment metal sink with dual integral metal drainboards where the utensils are first washed by hot water and a cleanser until they are clean, then rinsed in clear, hot water before being immersed in a final warm solution meeting the requirements of Section 114060.

(2) Machine washing of utensils in machines using a hot water or chemical sanitizing rinse shall meet or be equivalent to sanitation standards approved pursuant to Section 114065 and

1 shall be installed and operated in accordance with those standards.
2 The machines shall be of a type, and shall be installed and
3 operated, as approved by the department. The velocity, quantity,
4 and distribution of the wash water, type and concentration of
5 detergent used therein, and the time the utensils are exposed to the
6 water, shall be sufficient to clean the utensils.

7 (3) A two-compartment metal sink, having metal drainboards,
8 equipped for hot water sanitization, that is in use on January 1,
9 1985, may be continued in use until replaced.

10 (4) Other methods may be used after approval by the
11 department.

12 (d) Hot and cold water under pressure shall be provided
13 through a mixing valve to each sink compartment in all food
14 establishments constructed on or after January 1, 1985.

15 (e) All utensil washing equipment, except undercounter dish
16 machines, shall be provided with two integral metal drainboards
17 of adequate size and construction. One drainboard shall be
18 attached at the point of entry for soiled items and one shall be
19 attached at the point of exit for cleaned and sanitized items. Where
20 an undercounter dish machine is used, there shall be two metal
21 drainboards, one for soiled utensils and one for clean utensils,
22 located adjacent to the machine. The drainboards shall be sloped
23 and drained to an approved waste receptor. This requirement may
24 be satisfied by using the drainboards appurtenant to sinks as
25 required in subdivision (b) and paragraph (1) of subdivision (c),
26 if the facilities are located adjacent to the machine.

27 (f) The handling of cleaned and soiled utensils, equipment, and
28 kitchenware shall be undertaken in a manner that will preclude
29 possible contamination of cleaned items with soiled items.

30 (g) All utensils, display cases, windows, counters, shelves,
31 tables, refrigeration units, sinks, dishwashing machines, and other
32 equipment or utensils used in the preparation, sale, service, and
33 display of food shall be made of nontoxic, noncorrosive materials,
34 shall be constructed, installed, and maintained to be easily cleaned,
35 and shall be kept clean and in good repair.

36 (h) Utensils and equipment shall be handled and stored so as to
37 be protected from contamination. Single-service utensils shall be
38 obtained only in sanitary containers or approved sanitary
39 dispensers, stored in a clean, dry place until used, handled in a
40 sanitary manner, and used once only.

(i) Equipment food-contact surfaces and utensils shall be cleaned and sanitized as follows:

(1) Each time there is a change in processing between types of animal products, except when products are handled in the following order: any cooked ready-to-eat products first; raw beef and lamb products second; raw fish products third; and raw pork or poultry products last.

(2) Each time there is a change from working with raw foods of animal origin to working with ready-to-eat foods.

(3) Between uses with raw fruits or vegetables and with potentially hazardous food.

(4) Before each use of a food temperature-measuring device.

(5) At any time during the food handling operation when contamination may have occurred.

(j) (1) Except as provided in paragraphs (2) and (3) of this subdivision, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned and sanitized throughout the day, at least every four hours.

(2) Equipment food-contact surfaces and utensils may be cleaned and sanitized less frequently than every four hours if the utensils and equipment are used to prepare food in a refrigerated room, at or below 13 degrees Celsius (55 degrees Fahrenheit), and the utensils and equipment are cleaned and sanitized at least every 24 hours.

(3) Equipment food-contact surfaces and utensils may be cleaned and sanitized less frequently than every four hours if the enforcement agency approves the cleaning schedule utilized based on a consideration of the following factors:

(A) Characteristics of the equipment and its use.

(B) The type of food involved.

(C) The amount of food residue accumulation.

(D) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive growth of infectious or toxigenic microorganisms that may cause food infections or food intoxications.

(k) Nonfood contact surfaces of equipment shall be cleaned at a frequency necessary to prevent accumulation of residue.

SEC. 152. The heading of Chapter 5 (commencing with Section 127630) of Part 2 of Division 107 of the Health and Safety Code is amended to read:

1 CHAPTER 5. ~~SPECIALTY~~ SPECIALTY CARE UNDERSERVED AREAS

2
3 SEC. 153. Section 130140.1 of the Health and Safety Code is
4 amended to read:

5 130140.1. (a) In the event a county elects to participate in the
6 California Children and Families Program, and satisfies the
7 requirements set forth in Section 130140, the county may establish
8 a county commission that is either of the following:

9 (1) A legal public entity separate from the county.

10 (2) An agency of the county with independent authority over
11 the strategic plan described in Section 130140 and the local trust
12 fund established pursuant to subparagraph (A) of paragraph (2) of
13 subdivision (d) of Section 130105.

14 (b) In the event a county elects to establish a county
15 commission as specified in paragraph (1) of subdivision (a), the
16 following conditions shall apply:

17 (1) The county commission shall be considered a legal public
18 entity separate from the county, and shall file a statement as
19 required by Section 53051 of the Government Code.

20 (2) The powers, duties, and responsibilities of the county
21 commission shall include, but shall not be limited to, the
22 following:

23 (A) The power to employ personnel and contract for personal
24 services required to meet its obligations.

25 (B) The power to enter into any contracts necessary or
26 appropriate to carry out the provisions of this division.

27 (C) The power to acquire, possess, and dispose of real or
28 personal property, as necessary or appropriate to carry out the
29 provisions and purposes of this division.

30 (D) The power to sue or be sued.

31 (3) The county commission shall be deemed to be a public
32 agency that is a unit of local government for purposes of all grant
33 programs and other funding and loan guarantee programs.

34 (4) Any obligations of the county commission, statutory,
35 contractual, or otherwise, shall be obligations solely of the
36 commission.

37 (5) All claims or actions for money or damages against a county
38 commission shall be governed by Part 3 (commencing with
39 Section 900) and Part 4 (commencing with Section 940) of
40 Division 3.6 of Title 1 of the Government Code, except as

1 provided by other statutes or regulations that expressly apply to
2 county commissions.

3 (6) The county commission, its members, and its employees;
4 are protected by the immunities applicable to public entities and
5 public employees governed by Part 1 (commencing with Section
6 810) and Part 2 (commencing with Section 814) of Division 3.6
7 of Title 1 of the Government Code, except as provided by other
8 statutes or regulations that apply expressly to the county
9 commissions.

10 (7) If a county board of supervisors elects not to continue the
11 county's participation in the California Children and Families
12 Program, the board shall adopt an ordinance terminating the
13 county commission.

14 (A) In terminating its county commission, the board of
15 supervisors shall allow, to the extent possible, an appropriate
16 transition period to allow for the county commission's
17 then-existing obligations to be satisfied.

18 (B) In event of termination, any unencumbered and
19 unexpended moneys remaining in the local Children and Families
20 Trust Fund shall be distributed pursuant to subdivision (e) of
21 Section 130140.

22 (C) Prior to the termination of the county commission, the
23 board of supervisors shall notify the state Children and Families
24 Commission of its intent to terminate the county commission.

25 (D) The liabilities of the county commission shall not become
26 obligations of the county upon either the termination of the county
27 commission or the liquidation or disposition of the county
28 commission's remaining assets.

29 (c) If a county elects to establish a county commission as
30 provided in paragraph (2) of subdivision (a), the county
31 commission shall be deemed to be an agency of the county with
32 independent authority over the strategic plan described in Section
33 130140 and the local Children and Families Trust Fund established
34 pursuant to subparagraph (A) of paragraph (2) of subdivision (d)
35 of Section 130105.

36 (d) Any county commission established prior to the effective
37 date of this section that substantially complies with the provisions
38 of either subdivision (b) or (c) shall be deemed to be in compliance
39 with this section.

(e) (1) Individually identifiable physical or mental health information, substance abuse information, child care or education information, personnel or employment information, financial information, criminal justice information, or demographic information, regarding a child or a child's parent, legal guardian, or other family member, that is provided to a county commission by a parent, legal guardian, family member, health care provider, health plan, public health authority, school, law enforcement agency, social services agency, probation agency, or any other source, shall be considered confidential, and may be disclosed only to a person, agency, or entity that receives funding from the county commission, by way of a grant award or contract or as a service provider for the provision of early childhood services, and only to the extent necessary to the provision of services, unless further disclosure is authorized by a written consent of the parent or legal guardian, or where disclosure is required by state or federal law.

(2) Confidential information identified in accordance with this section shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 154. Section 1874.85 of the Insurance Code is amended to read:

1874.85. ~~Except as provided in subdivision (b), an~~ An insurer that issues automobile liability or collision policies shall inspect vehicles for which it has approved a claim for the cost of auto body repairs, either during the repair process or after the work has been completed, and the number of vehicles inspected shall be a statistical sampling sufficient to demonstrate to the department the insurer's efforts to reduce fraudulent auto body work during a calendar year.

SEC. 155. Section 10139.5 of the Insurance Code is amended to read:

10139.5. (a) This section shall become operative only upon enactment into law of amendments to the Federal Internal Revenue Code to impose an excise tax on a transfer of structured settlement payment rights if the transfer is not approved by a court.

This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

(b) A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by the court that:

(1) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(2) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received that advice or knowingly waived that advice in writing.

(3) The transferee has provided the payee with a disclosure form consistent with Section 10136 and the transfer agreement complies with Section 10138.

(4) The transfer does not contravene any applicable statute or the order of any court or other government authority.

(c) Following a transfer of structured settlement payment rights under this article:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments.

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer if the transfer contravenes the terms of the structured settlement for the following:

(A) Any taxes incurred by those parties as a consequence of the transfer.

(B) Any other liabilities or costs, including reasonable costs and ~~attorneys'~~ attorney's fees, arising from compliance by those parties with the order of the court or arising as a consequence of the transferee's failure to comply with this article.

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two, or more, transferees or assignees.

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this article.

(5) An application under this article for approval of a transfer of structured settlement payment rights shall be made by the

1 transferee and brought in the county in which the payee resides if
2 the payee is a resident of California. If the payee is not a resident
3 of California, the application for approval of a transfer of
4 structured settlement payment rights shall be made by the
5 transferee and may be brought as follows:

6 (A) In the county in which the payee resides.

7 (B) In the county in which the structured settlement obligor or
8 the annuity issuer maintains its principal place of business.

9 (C) In any court that approved the structured settlement
10 agreement.

11 (6) Not less than 20 days prior to the scheduled hearing on any
12 application for approval of a transfer of structured settlement
13 payment rights under this article, the transferee shall file with the
14 court and serve on all interested parties a notice of the proposed
15 transfer and the application for its authorization, and shall include
16 the following with that notice:

17 (A) A copy of the transferee's application.

18 (B) A copy of the transfer agreement.

19 (C) A listing of each of the payee's dependents, together with
20 each dependent's age.

21 (D) A copy of the disclosure required in subdivision (a) of
22 Section 10136.

23 (E) A copy of the annuity contract.

24 (F) A copy of any qualified assignment agreement.

25 (G) A copy of the underlying structured settlement agreement.

26 (H) Notification that any interested party is entitled to support,
27 oppose, or otherwise respond to the transferee's application, either
28 in person or by counsel, by submitting written comments to the
29 court or by participating in the hearing.

30 (I) Notification of the time and place of the hearing and
31 notification of the manner in which and the time by which written
32 responses to the application must be filed, which may not be less
33 than 15 days after service of the transferee's notice, in order to be
34 considered by the court.

35 (7) All court costs and filing fees shall be paid by the transferee.

36 (8) No later than the time of filing the petition for court
37 approval, the transferee shall advise the payee of the payee's right
38 to seek counsel in connection with the transferee's petition for
39 court approval of the transfer agreement, and shall further advise
40 the payee that if the payee retains counsel in connection with a

1 petition for an order approving the transfer agreement, that the
2 transferee shall pay the payee's counsel's fees, regardless of
3 whether the transfer agreement is approved, in an amount not to
4 exceed one thousand five hundred dollars (\$1,500).

5 (d) The transferee shall, within 30 days of obtaining final court
6 approval, file with the Attorney General a copy of any final court
7 order approving or denying the transfer of structured settlement
8 payment rights. The transferee shall specify in written form the
9 following information:

10 (1) Whether the payee was represented by an attorney and the
11 costs paid or owed to that attorney by the transferee and, if known,
12 by the payee.

13 (2) The county and judicial district where the court approval
14 was filed.

15 (3) For approved agreements, whether any changes were made
16 to the transfer agreement.

17 (4) For rejected agreements, the general category for the
18 rejection.

19 (5) The total court costs and attorney's fees paid by the
20 transferor to obtain court approval.

21 (6) The purchase prices of the transfer agreement and its
22 effective interest rate.

23 (e) Not later than March 31, 2004, the Attorney General shall
24 file a report with the Legislature to assist in the evaluation of the
25 impact of this section. The report shall include, based on
26 information the Attorney General has received from transferees,
27 the following:

28 (1) The number of petitions filed.

29 (2) The number of petitions approved without change.

30 (3) The number of petitions approved with changes and the
31 general category of the changes requested.

32 (4) The number of petitions rejected and the general categories
33 for rejection.

34 (5) The range of purchase prices, mean purchase price, median
35 purchase price, mean, effective interest rate, and median effective
36 interest rate.

37 (6) The number of petitions in which the payee was represented
38 by counsel, and if known, the amount of compensation paid to
39 counsel by the transferee and the payee.

1 SEC. 156. Section 10145.4 of the Insurance Code is amended
2 to read:

3 10145.4. (a) For an insured diagnosed with cancer and
4 accepted into a phase I, phase II, phase III, or phase IV clinical trial
5 for cancer, every policy of disability insurance that provides
6 hospital, medical, or surgical coverage in this state shall provide
7 coverage for all routine patient care costs related to the clinical trial
8 if the insured's treating physician, who is providing covered health
9 care services to the insured under the insured's health benefit plan
10 contract, recommends participation in the clinical trial after
11 determining that participation in the clinical trial has a meaningful
12 potential to benefit the insured. For purposes of this section, a
13 clinical trial's endpoints shall not be defined exclusively to test
14 toxicity, but shall have a therapeutic intent.

15 (b) (1) "Routine patient care costs" means the costs
16 associated with the provision of health care services, including
17 drugs, items, devices, and services that would otherwise be
18 covered under the plan or contract if those drugs, items, devices,
19 and services were not provided in connection with an approved
20 clinical trial program, including the following:

21 (A) Health care services typically provided absent a clinical
22 trial.

23 (B) Health care services required solely for the provision of the
24 investigational drug, item, device, or service.

25 (C) Health care services required for the clinically appropriate
26 monitoring of the investigational item or service.

27 (D) Health care services provided for the prevention of
28 complications arising from the provision of the investigational
29 drug, item, device, or service.

30 (E) Health care services needed for the reasonable and
31 necessary care arising from the provision of the investigational
32 drug, item, device, or service, including the diagnosis or treatment
33 of the complications.

34 (2) For purposes of this section, "routine patient care costs"
35 does not include the costs associated with the provision of any of
36 the following:

37 (A) Drugs or devices that have not been approved by the federal
38 Food and Drug Administration and that are associated with the
39 clinical trial.



1 (B) Services other than health care services, such as travel,
2 housing, companion expenses, and other nonclinical expenses,
3 that an insured may require as a result of the treatment being
4 provided for purposes of the clinical trial.

5 (C) Any item or service that is provided solely to satisfy data
6 collection and analysis needs and that is not used in the clinical
7 management of the patient.

8 (D) Health care services which, except for the fact that they are
9 not being provided in a clinical trial, are otherwise specifically
10 excluded from coverage under the insured's health plan.

11 (E) Health care services customarily provided by the research
12 sponsors free of charge for any enrollee in the trial.

13 (c) The treatment shall be provided in a clinical trial that either
14 (1) involves a drug that is exempt under federal regulations from
15 a new drug application or (2) that is approved by one of the
16 following:

17 (A) One of the National Institutes of Health.

18 (B) The federal Food and Drug Administration, in the form of
19 an investigational new drug application.

20 (C) The United States Department of Defense.

21 (D) The United States Veterans' Administration.

22 (d) In the case of health care services provided by a contracting
23 provider, the payment rate shall be at the agreed-upon rate. In the
24 case of a noncontracting provider, the payment shall be at the
25 negotiated rate the insurer would otherwise pay to a contracting
26 provider for the same services, less applicable copayments and
27 deductibles. Nothing in this section shall be construed to prohibit
28 a disability insurer from restricting coverage for clinical trials to
29 hospitals and physicians in California unless the protocol for the
30 clinical trial is not provided for at a California hospital or by a
31 California physician.

32 (e) The provision of services when required by this section
33 shall not, in itself, give rise to liability on the part of the insurer.

34 (f) This section shall not apply to vision-only, dental-only,
35 accident-only, specified disease, hospital indemnity, Medicare
36 supplement, CHAMPUS supplement, long-term care, or disability
37 income insurance, except that for specified disease and hospital
38 indemnity insurance, coverage for benefits under this section shall
39 apply, but only to the extent that the benefits are covered under the
40 general terms and conditions that apply to all other benefits under

1 the policy. Nothing in this section shall be construed as imposing
2 a new benefit mandate on specified disease or hospital indemnity
3 insurance.

4 (g) Nothing in this section shall be construed to prohibit, limit,
5 or modify an insured's rights to the independent review process
6 available under Section 10145.3 or to the Independent Medical
7 Review System available under Article 3.5 (commencing with
8 Section 10169).

9 (h) Nothing in this section shall be construed to otherwise limit
10 or modify any existing requirements under the provisions of this
11 chapter or to prevent application of deductible or copayment
12 provisions contained in the policy.

13 (i) Copayments and deductibles applied to services delivered in
14 a clinical trial shall be the same as those applied to the same
15 services if not delivered in a clinical trial.

16 SEC. 157. Section 12699.56 of the Insurance Code is
17 amended to read:

18 12699.56. (a) Upon its approval of a proposal, the board, in
19 collaboration with the State Department of Health Services, may
20 provide the applicant reimbursement in an amount equal to the
21 amount that the applicant will contribute to implement the
22 program described in its proposal, plus the appropriate and
23 allowable amount of federal funds under the State Children's
24 Health Insurance Program (Subchapter 21 (commencing with
25 Section 1397aa) of Chapter 7 of Title 42 of the United States
26 Code). Reimbursement provided from the Children's Health
27 Initiative Matching Fund shall consist of intergovernmental
28 transfers from applicants, as defined in subdivision (b) of Section
29 12699.51, and the appropriate and allowable federal State
30 Children's Health Insurance Program funds. Not more than 10
31 percent of the ~~Children's~~ Children's Health Initiative Matching
32 Fund shall be expended for administrative costs, including the
33 costs to the state to administer the proposal. The board, in
34 collaboration with the State Department of Health Services, may
35 audit the expenses incurred by the applicant in implementing its
36 program to ensure that the expenditures comply with the
37 provisions of this part. No reimbursement may be made to an
38 applicant that fails to meet its financial participation obligation
39 under this part. Reasonable ~~start-up~~ startup costs and ongoing

administrative costs for the program shall be reimbursed by those entities applying for funding.

(b) Each applicant that is provided funds under this part shall submit to the board a plan to limit initial and continuing enrollment in its program in the event the amount of moneys for its program is insufficient to maintain health insurance coverage for those participating in the program.

SEC. 158. Section 98.7 of the Labor Code is amended to read:

98.7. (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any law under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation. The six-month period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a separate, concurrent complaint with the United States Department of Labor within 30 days after the occurrence of the violation.

(b) Each complaint of unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint. The Labor Commissioner may designate the chief deputy or assistant Labor Commissioner or the chief counsel to receive and review the reports. The investigation shall include, where appropriate, interviews with the complainant, respondent, and any witnesses who may have information concerning the alleged violation, and a review of any documents that may be relevant to the disposition of the complaint. The identity of ~~witnesses~~ *a witness* shall remain confidential unless the identification of the witness becomes necessary to proceed with the investigation or to prosecute an action to enforce a determination. The investigation report submitted to the Labor Commissioner or designee shall include the statements and documents obtained in the investigation, and the findings of the investigator concerning whether a violation occurred. The Labor

1 Commissioner may hold an investigative hearing whenever the
2 Labor Commissioner determines, after review of the investigation
3 report, that a hearing is necessary to fully establish the facts. In the
4 hearing the investigation report shall be made a part of the record
5 and the complainant and respondent shall have the opportunity to
6 present further evidence. The Labor Commissioner shall issue,
7 serve, and enforce any necessary subpoenas.

8 (c) If the Labor Commissioner determines a violation has
9 occurred, he or she shall notify the complainant and respondent
10 and direct the respondent to cease and desist from the violation and
11 take any action ~~as is~~ deemed necessary to remedy the violation,
12 including, where appropriate, rehiring or reinstatement,
13 reimbursement of lost wages and interest thereon, payment of
14 reasonable attorney's fees associated with any hearing held by the
15 Labor Commissioner in investigating the complaint, and the
16 posting of notices to employees. If the respondent does not comply
17 with the order within 10 working days following notification of the
18 Labor Commissioner's determination, the Labor Commissioner
19 shall bring an action promptly in an appropriate court against the
20 respondent. If the Labor Commissioner fails to bring an action in
21 court promptly, the complainant may bring an action against the
22 Labor Commissioner in any appropriate court for a writ of
23 mandate to compel the Labor Commissioner to bring an action in
24 court against the respondent. If the complainant prevails in his or
25 her action for a writ, the court shall award the complainant court
26 costs and reasonable attorney's fees, notwithstanding any other
27 law. Regardless of any delay in bringing an action in court, the
28 Labor Commissioner shall not be divested of jurisdiction. In any
29 action, the court may permit the claimant to intervene as a party
30 plaintiff to the action and shall have jurisdiction, for cause shown,
31 to restrain the violation and to order all appropriate relief.
32 Appropriate relief includes, but is not limited to, rehiring or
33 reinstatement of the complainant, reimbursement of lost wages
34 and interest thereon, and any other compensation or equitable
35 relief as is appropriate under the circumstances of the case. The
36 Labor Commissioner shall petition the court for appropriate
37 temporary relief or restraining order unless he or she determines
38 good cause exists for not doing so.

39 (d) (1) If the Labor Commissioner determines no violation has
40 occurred, he or she shall notify the complainant and respondent

1 and shall dismiss the complaint. The Labor Commissioner may
 2 direct the complainant to pay reasonable attorney's fees associated
 3 with any hearing held by the Labor Commissioner if the Labor
 4 Commissioner finds the complaint was frivolous, unreasonable,
 5 groundless, and was brought in bad faith. The complainant may,
 6 after notification of the Labor Commissioner's determination to
 7 dismiss a complaint, bring an action in an appropriate court, which
 8 shall have jurisdiction to determine whether a violation occurred,
 9 and if so, to restrain the violation and order all appropriate relief
 10 to remedy the violation. Appropriate relief includes, but is not
 11 limited to, rehiring or reinstatement of the complainant,
 12 reimbursement of lost wages and interest thereon, and other
 13 compensation or equitable relief as is appropriate under the
 14 circumstances of the case. When dismissing a complaint, the
 15 Labor Commissioner shall advise the complainant of his or her
 16 right to bring an action in an appropriate court if he or she disagrees
 17 with the determination of the Labor Commissioner, and in the case
 18 of an alleged violation of Section 6310 or 6311, to file a complaint
 19 against the state program with the United States Department of
 20 Labor.

21 (2) The filing of a timely complaint against the state program
 22 with the United States Department of Labor shall stay the Labor
 23 Commissioner's dismissal of the division complaint until the
 24 United States Secretary of Labor makes a determination regarding
 25 the alleged violation. Within 15 days of receipt of that
 26 determination, the Labor Commissioner shall notify the parties
 27 whether he or she will reopen the complaint filed with the division
 28 or whether he or she will reaffirm the dismissal.

29 (e) The Labor Commissioner shall notify the complainant and
 30 respondent of his or her determination under subdivision (c) or
 31 paragraph (1) of subdivision (d), not later than 60 days after the
 32 filing of the complaint. Determinations by the Labor
 33 Commissioner under subdivision (c) or (d) may be appealed by the
 34 complainant or respondent to the Director of Industrial Relations
 35 within 10 days following notification of the Labor
 36 Commissioner's determination. The appeal shall set forth
 37 specifically and in full detail the grounds upon which the appealing
 38 party considers the Labor Commissioner's determination to be
 39 unjust or unlawful, and every issue to be considered by the
 40 director. The director may consider any issue relating to the initial



determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other law.

SEC. 159. Section 230.1 of the Labor Code is amended to read:

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence as defined in Section 6211 of the Family Code for taking time off from work to attend to any of the following:

(1) To seek medical attention for injuries caused by domestic violence.

(2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence.

(3) To obtain psychological counseling related to an experience of domestic violence.

(4) To participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee appeared in court.

1 (C) Documentation from a medical professional, domestic
2 violence advocate, health care provider, or counselor that the
3 employee was undergoing treatment for physical or mental
4 injuries or abuse resulting ~~in~~ *from* victimization from an act of
5 domestic violence.

6 (3) To the extent allowed by law, employers shall maintain the
7 confidentiality of any employee requesting leave under
8 subdivision (a).

9 (c) Any employee who is discharged, threatened with
10 discharge, demoted, suspended, or in any other manner
11 discriminated or retaliated against in the terms and conditions of
12 employment by his or her employer because the employee has
13 taken time off for a purpose set forth in subdivision (a) shall be
14 entitled to reinstatement and reimbursement for lost wages and
15 work benefits caused by the acts of the employer. Any employer
16 who willfully refuses to rehire, promote, or otherwise restore an
17 employee or former employee who has been determined to be
18 eligible for rehiring or promotion by a grievance procedure or
19 hearing authorized by law is guilty of a misdemeanor.

20 (d) (1) Any employee who is discharged, threatened with
21 discharge, demoted, suspended, or in any other manner
22 discriminated or retaliated against in the terms and conditions of
23 employment by his or her employer because the employee has
24 exercised his or her rights as set forth in subdivision (a) may file
25 a complaint with the Division of Labor Standards Enforcement of
26 the Department of Industrial Relations pursuant to Section 98.7.

27 (2) Notwithstanding any time limitation in Section 98.7, an
28 employee filing a complaint with the division based upon a
29 violation of subdivision (a) shall have one year from the date of
30 occurrence of the violation to file his or her complaint.

31 (e) An employee may use vacation, personal leave, or
32 compensatory time off that is otherwise available to the employee
33 under the applicable terms of employment, unless otherwise
34 provided by a collective bargaining agreement, for time taken off
35 for a purpose specified in subdivision (a). The entitlement of any
36 employee under this section shall not be diminished by any
37 collective bargaining agreement term or condition.

38 (f) This section does not create a right for an employee to take
39 unpaid leave that exceeds the unpaid leave time allowed under, or
40 is in addition to the unpaid leave time permitted by, the federal

1 Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et
2 seq.).

3 SEC. 160. Section 1161 of the Labor Code is amended to read:

4 1161. (a) The Agricultural Employee Relief Fund is hereby
5 created as a special fund in the State Treasury and is continuously
6 appropriated to the Agricultural Labor Relations Board for the
7 purposes specified in subdivision (c). The board shall act as a
8 trustee of all moneys deposited in the fund.

9 (b) Any monetary relief ordered by the board pursuant to this
10 part to be paid by an employer to an employee shall be collected
11 by the board on behalf of the employee. All monetary relief so
12 collected by the board shall be remitted to the employee for whom
13 the board collected the money.

14 (c) (1) Notwithstanding Section 1519 of the Code of Civil
15 Procedure, if the board has made a diligent effort to locate an
16 employee on whose behalf the board has collected monetary relief
17 pursuant to this part, and is unable to locate the employee or the
18 lawful representative of the employee for a period of two years
19 after the date the board collected the monetary relief, the board
20 shall deposit those moneys in the fund.

21 (2) Moneys in the fund shall be used by the board to pay
22 employees the unpaid balance of any monetary relief ordered by
23 the board to be paid by an employer to an employee. Prior to
24 making any payment from the fund, the board first shall make a
25 finding that, in an individual case, the collection of the full amount
26 of the monetary relief ordered is not possible after reasonable
27 efforts have been made to collect the balance from the employer.

28 (d) As used in this section, “fund” means the Agricultural
29 Employee Relief Fund.

30 (e) ~~Not later than~~ *On or before* July 1, 2002, the board shall
31 report to the Legislature on the status of the fund.

32 SEC. 161. Section 1776 of the Labor Code, as amended by
33 Section 2 of Chapter 804 of the Statutes of 2001, is amended to
34 read:

35 1776. (a) Each contractor and subcontractor shall keep
36 accurate payroll records, showing the name, address, social
37 security number, work classification, straight time and overtime
38 hours worked each day and week, and the actual per diem wages
39 paid to each journeyman, apprentice, worker, or other employee
40 employed by him or her in connection with the public work. Each

1 payroll record shall contain or be verified by a written declaration
2 that it is made under penalty of perjury, stating both of the
3 following:

4 (1) The information contained in the payroll record is true and
5 correct.

6 (2) The employer has complied with the requirements of
7 Sections 1771, 1811, and 1815 for any work performed by his or
8 her employees on the public works project.

9 (b) The payroll records enumerated under subdivision (a) shall
10 be certified and shall be available for inspection at all reasonable
11 hours at the principal office of the contractor on the following
12 basis:

13 (1) A certified copy of an employee's payroll record shall be
14 made available for inspection or furnished to the employee or his
15 or her authorized representative on request.

16 (2) A certified copy of all payroll records enumerated in
17 subdivision (a) shall be made available for inspection or furnished
18 upon request to a representative of the body awarding the contract,
19 the Division of Labor Standards Enforcement, and the Division of
20 Apprenticeship Standards of the Department of Industrial
21 Relations.

22 (3) A certified copy of all payroll records enumerated in
23 subdivision (a) shall be made available upon request by the public
24 for inspection or for copies thereof. However, a request by the
25 public shall be made through either the body awarding the
26 contract, the Division of Apprenticeship Standards, or the
27 Division of Labor Standards Enforcement. If the requested payroll
28 records have not been provided pursuant to paragraph (2), the
29 requesting party shall, prior to being provided the records,
30 reimburse the costs of preparation by the contractor,
31 subcontractors, and the entity through which the request was
32 made. The public shall not be given access to the records at the
33 principal office of the contractor.

34 (c) The certified payroll records shall be on forms provided by
35 the Division of Labor Standards Enforcement or shall contain the
36 same information as the forms provided by the division.

37 (d) A contractor or subcontractor shall file a certified copy of
38 the records enumerated in subdivision (a) with the entity that
39 requested the records within 10 days after receipt of a written
40 request.

1 (e) Any copy of records made available for inspection as copies
2 and furnished upon request to the public or any public agency by
3 the awarding body, the Division of Apprenticeship Standards, or
4 the Division of Labor Standards Enforcement shall be marked or
5 obliterated to prevent disclosure of an individual's name, address,
6 and social security number. The name and address of the contractor
7 awarded the contract or the subcontractor performing the contract
8 shall not be marked or obliterated. Any copy of records made
9 available for inspection by, or furnished to, a joint
10 labor-management committee established pursuant to the federal
11 Labor Management Cooperation Act of 1978 (~~Section 175a of~~
12 ~~Title 29 of the United States Code~~) (*29 U.S.C. Sec. 175a*) shall be
13 marked or obliterated only to prevent disclosure of an individual's
14 name and social security number. A joint labor management
15 committee may maintain an action in a court of competent
16 jurisdiction against an employer who fails to comply with Section
17 1774. The court may award restitution to an employee for unpaid
18 wages and may award the joint labor management committee
19 reasonable attorney's fee and costs incurred in maintaining the
20 action. An action under this subdivision may not be based on the
21 employer's misclassification of the craft of a worker on its
22 certified payroll records. Nothing in this subdivision limits any
23 other available remedies for a violation of this chapter.

24 (f) The contractor shall inform the body awarding the contract
25 of the location of the records enumerated under subdivision (a),
26 including the street address, city, and county, and shall, within five
27 working days, provide a notice of a change of location and address.

28 (g) The contractor or subcontractor shall have 10 days in which
29 to comply subsequent to receipt of a written notice requesting the
30 records enumerated in subdivision (a). In the event that the
31 contractor or subcontractor fails to comply within the 10-day
32 period, he or she shall, as a penalty to the state or political
33 subdivision on whose behalf the contract is made or awarded,
34 forfeit twenty-five dollars (\$25) for each calendar day, or portion
35 thereof, for each worker, until strict compliance is effectuated.
36 Upon the request of the Division of Apprenticeship Standards or
37 the Division of Labor Standards Enforcement, these penalties
38 shall be withheld from progress payments then due. A contractor
39 is not subject to a penalty assessment pursuant to this section due
40 to the failure of a subcontractor to comply with this section.

1 (h) The body awarding the contract shall cause to be inserted
2 in the contract stipulations to effectuate this section.

3 (i) The director shall adopt rules consistent with the California
4 Public Records Act, (Chapter 3.5 (commencing with Section
5 6250), *of Division 7, of Title 1, of the Government Code*) and the
6 Information Practices Act of 1977, (Title 1.8 (commencing with
7 Section 1798), *of Part 4, of Division 3, of the Civil Code*)
8 governing the release of these records, including the establishment
9 of reasonable fees to be charged for reproducing copies of records
10 required by this section.

11 (j) This section shall remain in effect only until January 1,
12 2003, and as of that date is repealed, unless a later enacted statute,
13 that is enacted before January 1, 2003, deletes or extends that date.

14 SEC. 162. Section 1776 of the Labor Code, as amended by
15 Section 3 of Chapter 804 of the Statutes of 2001, is amended to
16 read:

17 1776. (a) Each contractor and subcontractor shall keep an
18 accurate payroll record, showing the name, address, social security
19 number, work classification, and straight time and overtime hours
20 worked each day and week, and the actual per diem wages paid to
21 each journeyman, apprentice, worker, or other employee
22 employed by him or her in connection with the public work.

23 (b) The payroll records enumerated under subdivision (a) shall
24 be certified and shall be available for inspection at all reasonable
25 hours at the principal office of the contractor on the following
26 basis:

27 (1) A certified copy of an employee's payroll record shall be
28 made available for inspection or furnished to the employee or his
29 or her authorized representative on request.

30 (2) A certified copy of all payroll records enumerated in
31 subdivision (a) shall be made available for inspection or furnished
32 upon request to a representative of the body awarding the contract,
33 the Division of Labor Standards Enforcement, and the Division of
34 Apprenticeship Standards of the Department of Industrial
35 Relations.

36 (3) A certified copy of all payroll records enumerated in
37 subdivision (a) shall be made available upon request by the public
38 for inspection or for copies thereof. However, a request by the
39 public shall be made through either the body awarding the
40 contract, the Division of Apprenticeship Standards, or the

1 Division of Labor Standards Enforcement. If the requested payroll
2 records have not been provided pursuant to paragraph (2), the
3 requesting party shall, prior to being provided the records,
4 reimburse the costs of preparation by the contractor,
5 subcontractors, and the entity through which the request was
6 made. The public shall not be given access to the records at the
7 principal office of the contractor.

8 (c) The certified payroll records shall be on forms provided by
9 the Division of Labor Standards Enforcement or shall contain the
10 same information as the forms provided by the division.

11 (d) Each contractor shall file a certified copy of the records
12 enumerated in subdivision (a) with the entity that requested the
13 records within 10 days after receipt of a written request.

14 (e) Any copy of records made available for inspection as copies
15 and furnished upon request to the public or any public agency by
16 the awarding body, the Division of Apprenticeship Standards, or
17 the Division of Labor Standards Enforcement shall be marked or
18 obliterated to prevent disclosure of an individual's name, address,
19 and social security number. The name and address of the contractor
20 awarded the contract or performing the contract shall not be
21 marked or obliterated. Any copy of records made available for
22 inspection by, or furnished to, a joint labor-management
23 committee established pursuant to the federal Labor Management
24 Cooperation Act of 1978 (~~Section 175a of Title 29 of the United~~
25 ~~States Code~~) (29 U.S.C. Sec. 175a) shall be marked or obliterated
26 only to prevent disclosure of an individual's social security
27 number.

28 (f) The contractor shall inform the body awarding the contract
29 of the location of the records enumerated under subdivision (a),
30 including the street address, city, and county, and shall, within five
31 working days, provide a notice of a change of location and address.

32 (g) The contractor shall have 10 days in which to comply
33 subsequent to receipt of written notice specifying in what respects
34 the contractor must comply with this section. In the event that the
35 contractor fails to comply within the 10-day period, he or she shall,
36 as a penalty to the state or political subdivision on whose behalf the
37 contract is made or awarded, forfeit twenty-five dollars (\$25) for
38 each calendar day, or portion thereof, for each worker, until strict
39 compliance is effectuated. Upon the request of the Division of
40 Apprenticeship Standards or the Division of Labor Standards

1 Enforcement, these penalties shall be withheld from progress
2 payments then due.

3 (h) The body awarding the contract shall cause to be inserted
4 in the contract stipulations to effectuate this section. These
5 stipulations shall fix the responsibility for compliance with this
6 section on the prime contractor.

7 (i) The director shall adopt rules consistent with the California
8 Public Records Act; (Chapter 3.5 (commencing with Section
9 6250); of Division 7; of Title 1; of the Government Code) and the
10 Information Practices Act of 1977; (Title 1.8 (commencing with
11 Section 1798); of Part 4; of Division 3; of the Civil Code)
12 governing the release of these records, including the establishment
13 of reasonable fees to be charged for reproducing copies of records
14 required by this section.

15 (j) This section shall become operative January 1, 2003.

16 SEC. 163. Section 2695.2 of the Labor Code is amended to
17 read:

18 2695.2. (a) (1) For a shepherd employed on a regularly
19 scheduled 24-hour shift on a seven-day-a-week “on-call” basis,
20 an employer may, as an alternative to paying the minimum wage
21 for all hours worked, instead pay no less than the monthly
22 minimum wage adopted by the Industrial Welfare Commission on
23 April 24, 2001. Any shepherd who performs nonshepherding,
24 nonagricultural work on any workday shall be fully covered for
25 that workweek by the provisions of any applicable laws or
26 regulations relating to that work.

27 (2) After July 1, 2002, the amount of the monthly minimum
28 wage permitted under paragraph (1) shall be increased each time
29 that the state minimum wage is increased and shall become
30 effective on the same date as any increase in the state minimum
31 wage. The amount of the increase shall be determined by
32 calculating the percentage increase of the new rate over the
33 previous rate, and then by applying the same percentage increase
34 to the minimum monthly wage rate.

35 (b) (1) When tools or equipment are required by the employer
36 or are necessary to the performance of a job, the tools and
37 equipment shall be provided and maintained by the employer,
38 except that a shepherd whose wages are at least two times the
39 minimum wage provided herein, or if paid on a monthly basis, at
40 least two times the monthly minimum wage, may be required to

1 provide and maintain handtools and equipment customarily
2 required by the trade or craft.

3 (2) A reasonable deposit may be required as security for the
4 return of the items furnished by the employer under provisions of
5 paragraph (1) upon issuance of a receipt to the sheepherder for
6 such deposit. The deposits shall be made pursuant to Article 2
7 (commencing with Section 400) of Chapter 3. Alternatively, with
8 the prior written authorization of the sheepherder, an employer
9 may deduct from the sheepherder's last check the cost of any item
10 furnished pursuant to paragraph (1) when the item is not returned.
11 No deduction shall be made at any time for normal wear and tear.
12 All items furnished by the employer shall be returned by the
13 sheepherder upon completion of the job.

14 (c) No employer of sheepherders shall employ a sheepherder
15 for a work period of more than five hours without a meal period
16 of no less than 30 minutes, except that when a work period of not
17 more than six hours will complete a day's work, the meal period
18 may be waived by the mutual consent of the employer and the
19 sheepherder. An employer may be relieved of this obligation if a
20 meal period of 30 minutes cannot reasonably be provided because
21 no one is available to relieve a sheepherder tending flock alone on
22 that day. Where a meal period of 30 minutes can be provided but
23 not without interruption, a sheepherder shall be allowed to
24 complete the meal period during that day.

25 (d) To the extent practicable, every employer shall authorize
26 and permit all sheepherders to take rest periods. The rest period,
27 insofar as is practicable, shall be in the middle of each work period.
28 The authorized rest times shall be based on the total hours worked
29 daily at the rate of 10 minutes net rest time per four hours, or major
30 fraction thereof, of work. However, a rest period need not be
31 authorized for sheepherders whose total daily worktime is less
32 than three and one-half hours.

33 (e) When the nature of the work reasonably permits the use of
34 seats, suitable seats shall be provided for sheepherders working on
35 or at a machine.

36 (f) After January 1, 2003, during times when a sheepherder is
37 lodged in mobile housing units where it is feasible to provide
38 lodging that meets the minimum standards established by this
39 section because there is practicable access for mobile housing



1 units, the lodging provided shall include at a minimum all of the
2 following:

3 (1) Toilets and bathing facilities, which may include portable
4 toilets and portable shower facilities.

5 (2) Heating.

6 (3) Inside lighting.

7 (4) Potable hot and cold water.

8 (5) Adequate cooking facilities and utensils.

9 (6) A working refrigerator, which may include a butane or
10 propane gas refrigerator, or for no more than a one-week period
11 during which a nonworking refrigerator is repaired or replaced, a
12 means of refrigerating perishable food items, which may include
13 ice chests, provided that ice is delivered to the sheepherder, as
14 needed, to maintain a continuous temperature required to retard
15 spoilage and ensure food safety.

16 (g) After January 1, 2003, all sheepherders shall be provided
17 with all of the following at each worksite:

18 (1) Regular mail service.

19 (2) A means of communication through telephone or radio
20 solely for use in a medical emergency affecting the sheepherder or
21 for an emergency relating to the herding operation. If the means
22 of communication is provided by telephone, the sheepherder may
23 be charged for the actual cost of nonemergency telephone use.
24 Nothing in this subdivision shall preclude an employer from
25 providing additional means of communication to the sheepherder
26 which are appropriate because telephones or radios are out of
27 range or otherwise inoperable.

28 (3) Visitor access to the housing.

29 (4) Upon request and to the extent practicable, access to
30 transportation to and from the nearest locale where shopping,
31 medical, or cultural facilities and services are available on a
32 weekly basis.

33 (h) In addition to any other civil penalties provided by law, any
34 employer or any other person acting on behalf of the employer who
35 violates or causes to be violated the provisions of this section shall
36 be subject to a civil penalty, as follows:

37 (1) For the initial violation, fifty dollars (\$50) for each
38 underpaid employee for each pay period during which the
39 employee was underpaid, plus an amount sufficient to recover the
40 unpaid wages.

(2) For any subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(i) If the application of any provision of any subdivision, sentence, clause, phrase, word, or portion of this legislation is held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected and shall continue to be given full force and effect as if the part held invalid or unconstitutional had not been included.

(j) Every employer of sheepherders shall post a copy of this part in an area frequented by sheepherders where it may be easily read during the workday. Where the location of work or other conditions make posting impractical, every employer shall make a copy of this part available to sheepherders upon request. Copies of this part shall be posted and made available in a language understood by the sheepherder. An employer is deemed to have complied with this subdivision if he or she posts where practical, or makes available upon request where posting is impractical, a copy of the Industrial Welfare Commission Order 14-2001, as adopted on April 14 24, 2001, relating to sheepherders, provided that the posted material includes a sufficient summary of each of the provisions of this part.

SEC. 164. Section 3212 of the Labor Code is amended to read:

3212. In the case of members of a sheriff's office or the California Highway Patrol, district attorney's staff of inspectors and investigators or of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political subdivisions, whether ~~such~~ *those* members are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, and in the case of members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, excepting those whose principal duties are

1 clerical or otherwise do not clearly fall within the scope of active
2 law enforcement service such as ~~stenographer~~ *stenographers*,
3 telephone operators, and other officeworkers, the term “injury” as
4 used in this act includes hernia when any part of the hernia
5 develops or manifests itself during a period while ~~such~~ *the* member
6 is in the service in ~~such~~ *the* office, staff, division, department, or
7 unit, and in the case of members of ~~such~~ fire departments, except
8 those whose principal duties are clerical, such as stenographers,
9 telephone operators, and other officeworkers, and in the case of
10 county forestry or firefighting departments, except those whose
11 principal duties are clerical, such as stenographers, telephone
12 operators, and other officeworkers, and in the case of active
13 firefighting members of the Department of Forestry and Fire
14 Protection whose duties require firefighting, and in the case of
15 members of the warden service of the Wildlife Protection Branch
16 of the Department of Fish and Game whose principal duties consist
17 of active law enforcement service, excepting those whose
18 principal duties are clerical or otherwise do not clearly fall within
19 the scope of active law enforcement service such as ~~stenographer~~
20 *stenographers*, telephone operators, and other officeworkers, the
21 term “injury” includes pneumonia and heart trouble ~~which~~ *that*
22 develops or manifests itself during a period while ~~such~~ *the* member
23 is in the service of ~~such~~ *the* office, staff, department, or unit. In the
24 case of regular salaried county or city and county peace officers,
25 the term “injury” also includes any hernia ~~which~~ *that* manifests
26 itself or develops during a period while the officer is in the service.
27 The compensation ~~which~~ *that* is awarded for ~~such~~ *the* hernia, heart
28 trouble, or pneumonia shall include full hospital, surgical, medical
29 treatment, disability indemnity, and death benefits, as provided by
30 the workers’ compensation laws of this state.

31 ~~Such~~

32 *The* hernia, heart trouble, or pneumonia so developing or
33 manifesting itself in ~~such~~ *those* cases shall be presumed to arise out
34 of and in the course of the employment. This presumption is
35 disputable and may be controverted by other evidence, but unless
36 so controverted, the appeals board is bound to find in accordance
37 with it. ~~Such~~ *The* presumption shall be extended to a member
38 following termination of service for a period of three calendar
39 months for each full year of the requisite service, but not to exceed

1 60 months in any circumstance, commencing with the last date
2 actually worked in the specified capacity.

3 ~~Such~~

4 *The* hernia, heart trouble, or pneumonia so developing or
5 manifesting itself in ~~such~~ *those* cases shall in no case be attributed
6 to any disease existing prior to ~~such~~ *that* development or
7 manifestation.

8 SEC. 165. Section 3212.10 of the Labor Code is amended to
9 read:

10 3212.10. In the case of a peace officer of the Department of
11 Corrections who has custodial or supervisory duties of inmates or
12 parolees, or a peace officer of the Department of Youth Authority
13 who has custodial or supervisory ~~supervisory~~ duties of wards or
14 parolees, or a peace officer as defined in Section 830.5 of the Penal
15 Code and employed by a local agency, the term “injury” as used
16 in this division includes heart trouble, pneumonia, tuberculosis,
17 and meningitis that develops or manifests itself during a period in
18 which any peace officer covered under this section is in the service
19 of the department or unit. The compensation that is awarded for
20 that injury shall include full hospital, surgical, medical treatment,
21 disability indemnity, and death benefits as provided by the
22 provisions of this division.

23 The heart trouble, pneumonia, tuberculosis, and meningitis so
24 developing or manifesting itself shall be presumed to arise out of
25 and in the course of employment. This presumption is disputable
26 and may be controverted by other evidence, but unless so
27 controverted, the appeals board is bound to find in accordance with
28 it. This presumption shall be extended to a member following
29 termination of service for a period of three calendar months for
30 each full year of requisite service, but not to exceed 60 months in
31 any circumstance, commencing with the last date actually worked
32 in the specified capacity.

33 SEC. 166. Section 9102 of the Labor Code is amended to
34 read:

35 9102. (a) The owner, manager, or operator of a working
36 warehouse shall secure merchandise stored on shelves higher than
37 12 feet above the sales floor. Methods of securing merchandise
38 shall include rails, fencing, netting, security doors, gates, cables,
39 or the binding of items on a pallet into one unit by

1 shrink-wrapping, metal or plastic banding, or by tying items
2 together with a cord.

3 (b) All working warehouses shall comply with the provisions
4 of this section ~~by no later than~~ *on or before* July 1, 2002.

5 SEC. 167. Section 9103 of the Labor Code is amended to
6 read:

7 9103. (a) When heavy machinery is used to move
8 merchandise from a shelf, there shall be a safety zone established
9 to temporarily block customers from entering areas where
10 merchandise could fall during removal from a shelf.

11 (b) All working warehouses shall comply with the provisions
12 of this section ~~by no later than~~ *on or before* July 1, 2002.

13 SEC. 168. Section 1011 of the Military and Veterans Code is
14 amended to read:

15 1011. (a) There is in the department a Veterans' Home of
16 California, Yountville, situated at Veterans' Home, Napa County.

17 (b) (1) The department may establish and construct a second
18 home that shall be situated in the County of Imperial, Los Angeles,
19 Orange, Riverside, San Bernardino, San Diego, or Ventura. The
20 home may be located on one or more sites. The department shall
21 operate the second home concurrently with the first home.

22 (2) The initial site is the Veterans' Home of California,
23 Barstow, situated in Barstow, San Bernardino County. That site
24 may provide skilled nursing care for up to 250 residents.

25 (3) When completed, the second site shall be the Veterans'
26 Home of California, Chula Vista, situated in Chula Vista, San
27 Diego County, pursuant to the recommendations made by the
28 commission established pursuant to Section 1011.5.

29 (4) When completed, the third site shall be the Veterans' Home
30 of California, Lancaster, situated in Lancaster, Los Angeles
31 County, pursuant to the recommendations made by the
32 commission established pursuant to Section 1011.5.

33 (5) When completed, the fourth site shall be the Veterans'
34 Home of California, Ventura, situated in the community of
35 Saticoy, Ventura County.

36 (6) There shall be an administrator for, and located at, each site
37 of the southern California home.

38 (7) The department may complete any preapplication process
39 necessary with the United States Department of Veterans Affairs
40 for construction of the second home.

(c) The Legislature hereby finds and declares that the second home is a new state function. The department may perform any or all work in operating the second home by independent contractors, except the overall administration and management of the home. Any and all actions of the department taken before September 17, 1996, that are consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that the department be so authorized.

SEC. 169. Section 68 of the Penal Code is amended to read:

68. (a) Every executive or ministerial officer, employee, or appointee of the State of California, a county or city therein, or a political subdivision thereof, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his or her vote, opinion, or action upon any matter then pending, or that may be brought before him or her in his or her official capacity, shall be influenced thereby, is punishable by imprisonment in the state prison for two, three, or four years and, in cases ~~where in~~ *which* no bribe has been actually received, by a restitution fine of not less than two thousand dollars (\$2,000) or not more than ten thousand dollars (\$10,000) or, in cases ~~where in~~ *which* a bribe was actually received, by a restitution fine of at least the actual amount of the bribe received or two thousand dollars (\$2,000), whichever is greater, or any larger amount of not more than double the amount of any bribe received or ten thousand dollars (\$10,000), whichever is greater, and, in addition thereto, forfeits his or her office, employment, or appointment, and is forever disqualified from holding any office, employment, or appointment, in this state.

(b) In imposing a restitution fine ~~under~~ *pursuant to* this section, the court shall consider the defendant's ability to pay the fine.

SEC. 170. Section 86 of the Penal Code is amended to read:

86. Every member of either of the houses composing the Legislature of this state who asks, receives, or agrees to receive, any bribe, upon any understanding that his or her official vote, opinion, judgment, or action shall be influenced thereby, or shall give, in any particular manner, or upon any particular side of any question or matter upon which he or she may be required to act in his or her official capacity, or gives, or offers or promises to give, any official vote in consideration that another Member of the Legislature shall give this vote either upon the same or another question, is punishable by imprisonment in the state prison for two,

three, or four years and, in cases ~~where~~ *in which* no bribe has been actually received, by a restitution fine of not less than two thousand dollars (\$2,000) or not more than ten thousand dollars (\$10,000) or, in cases ~~where~~ *in which* a bribe was actually received, by a restitution fine of at least the actual amount of the bribe received or two thousand dollars (\$2,000), whichever is greater, or any larger amount of not more than double the amount of any bribe received or ten thousand dollars (\$10,000), whichever is greater.

In imposing a fine under this section, the court shall consider the defendant's ability to pay the fine.

SEC. 171. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence or location within, any city, county, or city and county, or campus in which he or she temporarily resides, or, if he or she has no residence, is located.

(B) If the person who is registering has more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 60 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose

1 jurisdiction he or she is located at the time he or she is updating the
2 registration. It is the intent of the Legislature that efforts be made
3 with respect to persons who are subject to this subparagraph who
4 are on probation or parole to engage them in treatment.

5 (D) Beginning on his or her first birthday following
6 registration or change of address, the person shall be required to
7 register annually, within five working days of his or her birthday,
8 to update his or her registration with the entities described in
9 subparagraph (A). At the annual update, the person shall provide
10 current information as required on the Department of Justice
11 annual update form, including the information described in
12 subparagraphs (A) to (C), inclusive, of paragraph (2) of
13 subdivision (e).

14 (E) In addition, every person who has ever been adjudicated a
15 sexually violent predator, as defined in Section 6600 of the
16 Welfare and Institutions Code, shall, after his or her release from
17 custody, verify his or her address no less than once every 90 days
18 and place of employment, including the name and address of the
19 employer, in a manner established by the Department of Justice.

20 (F) No entity shall require a person to pay a fee to register or
21 update his or her registration pursuant to this section. The
22 registering agency shall submit registrations, including annual
23 updates or changes of address, directly into the Department of
24 Justice Violent Crime Information Network (VCIN).

25 (G) Persons required to register in their state of residence who
26 are out-of-state residents employed, or carrying on a vocation in
27 California on a full-time or part-time basis, with or without
28 compensation, for more than 14 days, or for an aggregate period
29 exceeding 30 days in a calendar year, shall register in accordance
30 with subparagraph (A). Persons described in paragraph (2) who
31 are out-of-state residents enrolled in any educational institution in
32 California, as defined in Section 22129 of the Education Code, on
33 a full-time or part-time basis, shall register in accordance with
34 subparagraph (A). The place where the out-of-state resident is
35 located, for purposes of registration, shall be the place where the
36 person is employed, carrying on a vocation, or attending school.
37 The out-of-state resident subject to this subparagraph shall, in
38 addition to the information required pursuant to subdivision (e),
39 provide the registering authority with the name of his or her place
40 of employment or the name of the school attended in California,

1 and his or her address or location in his or her state of residence.
2 The registration requirement for persons subject to this
3 subparagraph shall become operative on November 25, 2000. The
4 terms “employed or carries on a vocation” include employment
5 whether or not financially compensated, volunteered, or
6 performed for government or educational benefit.

7 (2) The following persons shall be required to register pursuant
8 to paragraph (1):

9 (A) Any person who, since July 1, 1944, has been or is hereafter
10 convicted in any court in this state or in any federal or military
11 court of a violation of Section 207 or 209 committed with intent
12 to violate Section 261, 286, 288, 288a, or 289, Section 220, except
13 assault to commit mayhem, Section 243.4, paragraph (1), (2), (3),
14 (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of
15 subdivision (a) of Section 262 involving the use of force or
16 violence for which the person is sentenced to the state prison,
17 Section 264.1, 266, 266c, subdivision (b) of Section 266h,
18 subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288,
19 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2,
20 Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section
21 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section
22 314, any offense involving lewd or lascivious conduct under
23 Section 272, or any felony violation of Section 288.2; or any
24 person who since that date has been or is hereafter convicted of the
25 attempt to commit any of the above-mentioned offenses.

26 (B) Any person who, since July 1, 1944, has been or hereafter
27 is released, discharged, or paroled from a penal institution where
28 he or she was confined because of the commission or attempted
29 commission of one of the offenses described in subparagraph (A).

30 (C) Any person who, since July 1, 1944, has been or hereafter
31 is determined to be a mentally disordered sex offender under
32 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
33 of Division 6 of the Welfare and Institutions Code or any person
34 who has been found guilty in the guilt phase of a trial for an offense
35 for which registration is required by this section but who has been
36 found not guilty by reason of insanity in the sanity phase of the
37 trial.

38 (D) Any person who, since July 1, 1944, has been, or is
39 hereafter convicted in any other court, including any state, federal,
40 or military court, of any offense that, if committed or attempted in

1 this state, would have been punishable as one or more of the
2 offenses described in subparagraph (A) or any person ordered by
3 any other court, including any state, federal, or military court, to
4 register as a sex offender for any offense, if the court found at the
5 time of conviction or sentencing that the person committed the
6 offense as a result of sexual compulsion or for purposes of sexual
7 gratification.

8 (E) Any person ordered by any court to register pursuant to this
9 section for any offense not included specifically in this section if
10 the court finds at the time of conviction or sentencing that the
11 person committed the offense as a result of sexual compulsion or
12 for purposes of sexual gratification. The court shall state on the
13 record the reasons for its findings and the reasons for requiring
14 registration.

15 (F) (i) Notwithstanding any other subdivision, a person who
16 was convicted before January 1, 1976, under subdivision (a) of
17 Section 286, or Section 288a, shall not be required to register
18 pursuant to this section for that conviction if the conviction was for
19 conduct between consenting adults that was decriminalized by
20 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes
21 of 1976. The Department of Justice shall remove that person from
22 the Sex Offender Registry, and the person is discharged from his
23 or her duty to register pursuant to the following procedure:

24 (I) The person submits to the Department of Justice official
25 documentary evidence, including court records or police reports,
26 that demonstrate that the person's conviction pursuant to either of
27 those sections was for conduct between consenting adults that was
28 decriminalized; or

29 (II) The person submits to the department a declaration stating
30 that the person's conviction pursuant to either of those sections was
31 for consensual conduct between adults that has been
32 decriminalized. The declaration shall be confidential and not a
33 public record, and shall include the person's name, address,
34 telephone number, date of birth, and a summary of the
35 circumstances leading to the conviction, including the date of the
36 conviction and county of the occurrence.

37 (III) The department shall determine whether the person's
38 conviction was for conduct between consensual adults that has
39 been decriminalized. If the conviction was for consensual conduct
40 between adults that has been decriminalized, and the person has no

1 other offenses for which he or she is required to register pursuant
2 to this section, the department shall, within 60 days of receipt of
3 those documents, notify the person that he or she is relieved of the
4 duty to register, and shall notify the local law enforcement agency
5 with which the person is registered that he or she has been relieved
6 of the duty to register. The local law enforcement agency shall
7 remove the person's registration from its files within 30 days of
8 receipt of notification. If the documentary or other evidence
9 submitted is insufficient to establish the person's claim, the
10 department shall, within 60 days of receipt of those documents,
11 notify the person that his or her claim cannot be established, and
12 that the person shall continue to register pursuant to this section.
13 The department shall provide, upon the person's request, any
14 information relied upon by the department in making its
15 determination that the person shall continue to register pursuant to
16 this section. Any person whose claim has been denied by the
17 department pursuant to this clause may petition the court to appeal
18 the department's denial of the person's claim.

19 (ii) On or before July 1, 1998, the department shall make a
20 report to the Legislature concerning the status of persons who may
21 come under the provisions of this subparagraph, including the
22 number of persons who were convicted before January 1, 1976,
23 under subdivision (a) of Section 286 or Section 288a and are
24 required to register under this section, the average age of these
25 persons, the number of these persons who have any subsequent
26 convictions for a registerable sex offense, and the number of these
27 persons who have sought successfully or unsuccessfully to be
28 relieved of their duty to register under this section.

29 (b) (1) Any person who is released, discharged, or paroled
30 from a jail, state or federal prison, school, road camp, or other
31 institution where he or she was confined because of the
32 commission or attempted commission of one of the offenses
33 specified in subdivision (a) or is released from a state hospital to
34 which he or she was committed as a mentally disordered sex
35 offender under Article 1 (commencing with Section 6300) of
36 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
37 Code, shall, prior to discharge, parole, or release, be informed of
38 his or her duty to register under this section by the official in charge
39 of the place of confinement or hospital, and the official shall
40 require the person to read and sign any form that may be required

1 by the Department of Justice, stating that the duty of the person to
2 register under this section has been explained to the person. The
3 official in charge of the place of confinement or hospital shall
4 obtain the address where the person expects to reside upon his or
5 her discharge, parole, or release and shall report the address to the
6 Department of Justice. The official shall at the same time forward
7 a current photograph of the person to the Department of Justice.

8 (2) The official in charge of the place of confinement or
9 hospital shall give one copy of the form to the person and shall send
10 one copy to the Department of Justice and one copy to the
11 appropriate law enforcement agency or agencies having
12 jurisdiction over the place the person expects to reside upon
13 discharge, parole, or release. If the conviction that makes the
14 person subject to this section is a felony conviction, the official in
15 charge shall, not later than 45 days prior to the scheduled release
16 of the person, send one copy to the appropriate law enforcement
17 agency or agencies having local jurisdiction where the person
18 expects to reside upon discharge, parole, or release; one copy to the
19 prosecuting agency that prosecuted the person; and one copy to the
20 Department of Justice. The official in charge of the place of
21 confinement or hospital shall retain one copy.

22 (c) (1) Any person who is convicted in this state of the
23 commission or attempted commission of any of the offenses
24 specified in subdivision (a) and who is released on probation, shall,
25 prior to release or discharge, be informed of the duty to register
26 under this section by the probation department, and a probation
27 officer shall require the person to read and sign any form that may
28 be required by the Department of Justice, stating that the duty of
29 the person to register under this section has been explained to him
30 or her. The probation officer shall obtain the address where the
31 person expects to reside upon release or discharge and shall report
32 within three days the address to the Department of Justice. The
33 probation officer shall give one copy of the form to the person,
34 send one copy to the Department of Justice, and forward one copy
35 to the appropriate law enforcement agency or agencies having
36 local jurisdiction where the person expects to reside upon his or her
37 discharge, parole, or release.

38 (2) Any person who is convicted in this state of the commission
39 or attempted commission of any of the offenses specified in
40 subdivision (a) and who is granted conditional release without

1 supervised probation, or discharged upon payment of a fine, shall,
2 prior to release or discharge, be informed of the duty to register
3 under this section in open court by the court in which the person
4 has been convicted, and the court shall require the person to read
5 and sign any form that may be required by the Department of
6 Justice, stating that the duty of the person to register under this
7 section has been explained to him or her. If the court finds that it
8 is in the interest of the efficiency of the court, the court may assign
9 the bailiff to require the person to read and sign forms under this
10 section. The court shall obtain the address where the person
11 expects to reside upon release or discharge and shall report within
12 three days the address to the Department of Justice. The court shall
13 give one copy of the form to the person, send one copy to the
14 Department of Justice, and forward one copy to the appropriate
15 law enforcement agency or agencies having local jurisdiction
16 where the person expects to reside upon his or her discharge,
17 parole, or release.

18 (d) (1) Any person who, on or after January 1, 1986, is
19 discharged or paroled from the Department of the Youth Authority
20 to the custody of which he or she was committed after having been
21 adjudicated a ward of the juvenile court pursuant to Section 602
22 of the Welfare and Institutions Code because of the commission or
23 attempted commission of any offense described in paragraph (3)
24 shall be subject to registration under the procedures of this section.

25 (2) Any person who is discharged or paroled from a facility in
26 another state that is equivalent to the Department of the Youth
27 Authority, to the custody of which he or she was committed
28 because of an offense which, if committed or attempted in this
29 state, would have been punishable as one or more of the offenses
30 described in paragraph (3), shall be subject to registration under
31 the procedures of this section.

32 (3) Any person described in this subdivision who committed an
33 offense in violation of any of the following provisions shall be
34 required to register pursuant to this section:

35 (A) Assault with intent to commit rape, sodomy, oral
36 copulation, or any violation of Section 264.1, 288, or 289 under
37 Section 220.

38 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
39 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
40 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,

1 Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b)
2 of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of
3 Section 289, or Section 647.6.

4 (C) A violation of Section 207 or 209 committed with the intent
5 to violate Section 261, 286, 288, 288a, or 289.

6 (4) Prior to discharge or parole from the Department of the
7 Youth Authority, any person who is subject to registration under
8 this subdivision shall be informed of the duty to register under the
9 procedures set forth in this section. Department of the Youth
10 Authority officials shall transmit the required forms and
11 information to the Department of Justice.

12 (5) All records specifically relating to the registration in the
13 custody of the Department of Justice, law enforcement agencies,
14 and other agencies or public officials shall be destroyed when the
15 person who is required to register has his or her records sealed
16 under the procedures set forth in Section 781 of the Welfare and
17 Institutions Code. This subdivision shall not be construed as
18 requiring the destruction of other criminal offender or juvenile
19 records relating to the case that are maintained by the Department
20 of Justice, law enforcement agencies, the juvenile court, or other
21 agencies and public officials unless ordered by a court under
22 Section 781 of the Welfare and Institutions Code.

23 (e) (1) On or after January 1, 1998, upon incarceration,
24 placement, or commitment, or prior to release on probation, any
25 person who is required to register under this section shall
26 preregister. The preregistering official shall be the admitting
27 officer at the place of incarceration, placement, or commitment, or
28 the probation officer if the person is to be released on probation.
29 The preregistration shall consist of ~~both~~ *all* of the following:

30 (A) A preregistration statement in writing, signed by the
31 person, giving information that shall be required by the
32 Department of Justice.

33 (B) The fingerprints and a current photograph of the person.

34 (C) Any person who is preregistered pursuant to this
35 subdivision is required to be preregistered only once.

36 (2) A person described in paragraph (2) of subdivision (a) shall
37 register, or reregister if the person has previously registered, upon
38 release from incarceration, placement, or commitment, pursuant
39 to paragraph (1) of subdivision (a). The registration shall consist
40 of all of the following:

1 (A) A statement in writing signed by the person, giving
2 information as shall be required by the Department of Justice and
3 giving the name and address of the person's employer, and the
4 address of the person's place of employment if that is different
5 from the employer's main address.

6 (B) The fingerprints and a current photograph of the person
7 taken by the registering official.

8 (C) The license plate number of any vehicle owned by,
9 regularly driven by, or registered in the name of the person.

10 (D) Notice to the person that, in addition to the requirements of
11 paragraph (4), he or she may have a duty to register in any other
12 state where he or she may relocate.

13 (E) Copies of adequate proof of residence, which shall be
14 limited to a California driver's license, California identification
15 card, recent rent or utility receipt, printed personalized checks or
16 other recent banking documents showing that person's name and
17 address, or any other information that the registering official
18 believes is reliable. If the person has no residence and no
19 reasonable expectation of obtaining a residence in the foreseeable
20 future, the person shall so advise the registering official and shall
21 sign a statement provided by the registering official stating that
22 fact. Upon presentation of proof of residence to the registering
23 official or a signed statement that the person has no residence, the
24 person shall be allowed to register. If the person claims that he or
25 she has a residence but does not have any proof of residence, he or
26 she shall be allowed to register but shall furnish proof of residence
27 within 30 days of the day he or she is allowed to register.

28 (3) Within three days thereafter, the preregistering official or
29 the registering law enforcement agency or agencies shall forward
30 the statement, fingerprints, photograph, and vehicle license plate
31 number, if any, to the Department of Justice.

32 (f) (1) If any person who is required to register pursuant to this
33 section changes his or her residence address or location, whether
34 within the jurisdiction in which he or she is currently registered or
35 to a new jurisdiction inside or outside the state, the person shall
36 inform, in writing within five working days, the law enforcement
37 agency or agencies with which he or she last registered of the new
38 address or location. The law enforcement agency or agencies shall,
39 within three days after receipt of this information, forward a copy
40 of the change of address or location information to the Department

1 of Justice. The Department of Justice shall forward appropriate
2 registration data to the law enforcement agency or agencies having
3 local jurisdiction of the new place of residence or location.

4 (2) If the person's new address is in a Department of the Youth
5 Authority facility or a state prison or state mental institution, an
6 official of the place of incarceration, placement, or commitment
7 shall, within 90 days of receipt of the person, forward the
8 registrant's change of address information to the Department of
9 Justice. The agency need not provide a physical address for the
10 registrant but shall indicate that he or she is serving a period of
11 incarceration or commitment in a facility under the agency's
12 jurisdiction. This paragraph shall apply to persons received in a
13 Department of the Youth Authority facility or a state prison or state
14 mental institution on or after January 1, 1999. The Department of
15 Justice shall forward the change of address information to the
16 agency with which the person last registered.

17 (3) If any person who is required to register pursuant to this
18 section changes his or her name, the person shall inform, in person,
19 the law enforcement agency or agencies with which he or she is
20 currently registered within five working days. The law
21 enforcement agency or agencies shall forward a copy of this
22 information to the Department of Justice within three days of its
23 receipt.

24 (g) (1) Any person who is required to register under this
25 section based on a misdemeanor conviction or juvenile
26 adjudication who willfully violates any requirement of this section
27 is guilty of a misdemeanor punishable by imprisonment in a
28 county jail not exceeding one year.

29 (2) Except as provided in paragraphs (5) and (7), any person
30 who is required to register under this section based on a felony
31 conviction or juvenile adjudication who willfully violates any
32 requirement of this section or who has a prior conviction or
33 juvenile adjudication for the offense of failing to register under this
34 section and who subsequently and willfully violates any
35 requirement of this section is guilty of a felony and shall be
36 punished by imprisonment in the state prison for 16 months, or two
37 or three years.

38 If probation is granted or if the imposition or execution of
39 sentence is suspended, it shall be a condition of the probation or
40 suspension that the person serve at least 90 days in a county jail.

1 The penalty described in this paragraph shall apply whether or not
2 the person has been released on parole or has been discharged from
3 parole.

4 (3) Any person determined to be a mentally disordered sex
5 offender or who has been found guilty in the guilt phase of trial for
6 an offense for which registration is required under this section, but
7 who has been found not guilty by reason of insanity in the sanity
8 phase of the trial, or who has had a petition sustained in a juvenile
9 adjudication for an offense for which registration is required under
10 this section pursuant to subdivision (d), but who has been found
11 not guilty by reason of insanity, who willfully violates any
12 requirement of this section is guilty of a misdemeanor and shall be
13 punished by imprisonment in a county jail not exceeding one year.
14 For any second or subsequent willful violation of any requirement
15 of this section, the person is guilty of a felony and shall be punished
16 by imprisonment in the state prison for 16 months, or two or three
17 years.

18 (4) If, after discharge from parole, the person is convicted of a
19 felony or suffers a juvenile adjudication as specified in this
20 subdivision, he or she shall be required to complete parole of at
21 least one year, in addition to any other punishment imposed under
22 this subdivision. A person convicted of a felony as specified in this
23 subdivision may be granted probation only in the unusual case
24 where the interests of justice would best be served. When
25 probation is granted under this paragraph, the court shall specify
26 on the record and shall enter into the minutes the circumstances
27 indicating that the interests of justice would best be served by the
28 disposition.

29 (5) Any person who has ever been adjudicated a sexually
30 violent predator, as defined in Section 6600 of the Welfare and
31 Institutions Code, and who fails to verify his or her registration
32 every 90 days as required pursuant to subparagraph (E) of
33 paragraph (1) of subdivision (a), shall be punished by
34 imprisonment in the state prison, or in a county jail not exceeding
35 one year.

36 (6) Except as otherwise provided in paragraph (5), and in
37 addition to any other penalty imposed under this subdivision, any
38 person who is required pursuant to subparagraph (C) of paragraph
39 (1) of subdivision (a) to update his or her registration every 60 days
40 and willfully fails to update his or her registration is guilty of a

1 misdemeanor and shall be punished by imprisonment in a county
2 jail not exceeding six months. Any subsequent violation of this
3 requirement that persons described in subparagraph (C) of
4 paragraph (1) of subdivision (a) shall update their registration
5 every 60 days is also a misdemeanor and shall be punished by
6 imprisonment in a county jail not exceeding six months.

7 (7) Any person who fails to provide proof of residence as
8 required by subparagraph (E) of paragraph (2) of subdivision (e),
9 regardless of the offense upon which the duty to register is based,
10 is guilty of a misdemeanor punishable by imprisonment in a
11 county jail not exceeding six months.

12 (8) Any person who is required to register under this section
13 who willfully violates any requirement of this section is guilty of
14 a continuing offense.

15 (h) Whenever any person is released on parole or probation and
16 is required to register under this section but fails to do so within
17 the time prescribed, the parole authority, the Youthful Offender
18 Parole Board, or the court, as the case may be, shall order the
19 parole or probation of the person revoked. For purposes of this
20 subdivision, “parole authority” has the same meaning as
21 described in Section 3000.

22 (i) Except as provided in subdivisions (m) and (n) and Section
23 290.4, the statements, photographs, and fingerprints required by
24 this section shall not be open to inspection by the public or by any
25 person other than a regularly employed peace officer or other law
26 enforcement officer.

27 (j) In any case in which a person who would be required to
28 register pursuant to this section for a felony conviction is to be
29 temporarily sent outside the institution where he or she is confined
30 on any assignment within a city or county including firefighting,
31 disaster control, or of whatever nature the assignment may be, the
32 local law enforcement agency having jurisdiction over the place
33 or places where the assignment shall occur shall be notified within
34 a reasonable time prior to removal from the institution. This
35 subdivision shall not apply to any person who is temporarily
36 released under guard from the institution where he or she is
37 confined.

38 (k) As used in this section, “mentally disordered sex offender”
39 includes any person who has been determined to be a sexual
40 psychopath or a mentally disordered sex offender under any

1 provision which, on or before January 1, 1976, was contained in
2 Division 6 (commencing with Section 6000) of the Welfare and
3 Institutions Code.

4 (l) (1) Every person who, prior to January 1, 1997, is required
5 to register under this section, shall be notified whenever he or she
6 next reregisters of the reduction of the registration period from 14
7 to five working days. This notice shall be provided in writing by
8 the registering agency or agencies. Failure to receive this
9 notification shall be a defense against the penalties prescribed by
10 subdivision (g) if the person did register within 14 days.

11 (2) Every person who, as a sexually violent predator, as defined
12 in Section 6600 of the Welfare and Institutions Code, is required
13 to verify his or her registration every 90 days, shall be notified
14 wherever he or she next registers of his or her increased
15 registration obligations. This notice shall be provided in writing by
16 the registering agency or agencies. Failure to receive this notice
17 shall be a defense against the penalties prescribed by paragraph (5)
18 of subdivision (g).

19 (m) (1) When a peace officer reasonably suspects, based on
20 information that has come to his or her attention through
21 information provided by any peace officer or member of the
22 public, that a child or other person may be at risk from a sex
23 offender convicted of a crime listed in paragraph (1) of subdivision
24 (a) of Section 290.4, a law enforcement agency may,
25 notwithstanding any other provision of law, provide any of the
26 information specified in paragraph (4) of this subdivision about
27 that registered sex offender that the agency deems relevant and
28 necessary to protect the public, to the following persons, agencies,
29 or organizations the offender is likely to encounter, including, but
30 not limited to, the following:

31 (A) Public and private educational institutions, day care
32 establishments, and establishments and organizations that
33 primarily serve individuals likely to be victimized by the offender.

34 (B) Other community members at risk.

35 (2) The law enforcement agency may authorize persons and
36 entities who receive the information pursuant to paragraph (1) to
37 disclose information to additional persons only if the agency does
38 the following:

39 (A) Determines that all conditions set forth in paragraph (1)
40 have been satisfied regarding disclosure to the additional persons.

1 (B) Identifies the appropriate scope of further disclosure.

2 (3) Persons notified pursuant to paragraph (1) may disclose the
3 information provided by the law enforcement agency in the
4 manner and to the extent authorized by the law enforcement
5 agency.

6 (4) The information that may be disclosed pursuant to this
7 section includes the following:

8 (A) The offender's full name.

9 (B) The offender's known aliases.

10 (C) The offender's gender.

11 (D) The offender's race.

12 (E) The offender's physical description.

13 (F) The offender's photograph.

14 (G) The offender's date of birth.

15 (H) Crimes resulting in registration under this section.

16 (I) The offender's address, which must be verified prior to
17 publication.

18 (J) Description and license plate number of offender's vehicles
19 or vehicles the offender is known to drive.

20 (K) Type of victim targeted by the offender.

21 (L) Relevant parole or probation conditions, such as one
22 prohibiting contact with children.

23 (M) Dates of crimes resulting in classification under this
24 section.

25 (N) Date of release from confinement.

26 (O) The offender's enrollment, employment, or vocational
27 status with any university, college, community college, or other
28 institution of higher learning.

29 However, information disclosed pursuant to this subdivision
30 shall not include information that would identify the victim.

31 (5) If a law enforcement agency discloses information pursuant
32 to this subdivision, it shall include, with the disclosure, a statement
33 that the purpose of the release of the information is to allow
34 members of the public to protect themselves and their children
35 from sex offenders.

36 (6) For purposes of this section, "likely to encounter" means
37 both of the following:

38 (A) That the agencies, organizations, or other community
39 members are in a location or in close proximity to a location where

1 the offender lives or is employed, or that the offender visits or is
2 likely to visit on a regular basis.

3 (B) The types of interaction that ordinarily occur at that
4 location and other circumstances indicate that contact with the
5 offender is reasonably probable.

6 (7) For purposes of this section, “reasonably suspects” means
7 that it is objectively reasonable for a peace officer to entertain a
8 suspicion, based upon facts that could cause a reasonable person
9 in a like position, drawing when appropriate on his or her training
10 and experience, to suspect that a child or other person is at risk.

11 (8) For purposes of this section, “at risk” means a person is or
12 may be exposed to a risk of becoming a victim of a sex offense
13 committed by the offender.

14 (9) A law enforcement agency may continue to disclose
15 information on an offender under this subdivision for as long as the
16 offender is included in Section 290.4.

17 (n) In addition to the procedures set forth elsewhere in this
18 section, a designated law enforcement entity may advise the public
19 of the presence of high-risk sex offenders in its community
20 pursuant to this subdivision.

21 (1) For purposes of this subdivision:

22 (A) A high-risk sex offender is a person who has been
23 convicted of an offense specified in paragraph (1) of subdivision
24 (a) of Section 290.4, and also meets one of the following criteria:

25 (i) Has been convicted of three or more violent sex offenses, at
26 least two of which were brought and tried separately.

27 (ii) Has been convicted of two violent sex offenses and one or
28 more violent nonsex offenses, at least two of which were brought
29 and tried separately.

30 (iii) Has been convicted of one violent sex offense and two or
31 more violent nonsex offenses, at least two of which were brought
32 and tried separately.

33 (iv) Has been convicted of either two violent sex offenses or
34 one violent sex offense and one violent nonsex offense, at least two
35 of which were brought and tried separately, and has been arrested
36 on separate occasions for three or more violent sex offenses,
37 violent nonsex offenses, or associated offenses.

38 (v) Has been adjudicated a sexually violent predator pursuant
39 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
40 2 of Division 6 of the Welfare and Institutions Code.

1 (B) A violent sex offense means any offense defined in Section
2 220, except attempt to commit mayhem, or Section 261, 264.1,
3 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily
4 injury during the commission of a sex offense, as provided in
5 Section 12022.8.

6 (C) A violent nonsex offense means any offense defined in
7 Section 187, subdivision (a) of Section 192, or Section 203, 206,
8 207, or 236, provided that the offense is a felony, subdivision (a)
9 of Section 273a, Section 273d or 451, or attempted murder, as
10 defined in Sections 187 and 664.

11 (D) An associated offense means any offense defined in
12 Section 243.4, provided that the offense is a felony, Section 311.1,
13 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314, Section 459,
14 provided the offense is of the first degree, Section 597 or 646.9,
15 subdivision (d), (h), or (i) of Section 647, Section 653m, or
16 infliction of great bodily injury during the commission of a felony,
17 as defined in Section 12022.7.

18 (E) For purposes of subparagraphs (B) to (D), inclusive, an
19 arrest or conviction for the statutory predecessor of any of the
20 enumerated offenses, or an arrest or conviction in any other
21 jurisdiction for any offense that, if committed or attempted in this
22 state, would have been punishable as one or more of the offenses
23 described in those subparagraphs, is to be considered in
24 determining whether an offender is a high-risk sex offender.

25 (F) For purposes of subparagraphs (B) to (D), inclusive, an
26 arrest as a juvenile or an adjudication as a ward of the juvenile
27 court within the meaning of Section 602 of the Welfare and
28 Institutions Code for any of the offenses described in those
29 subparagraphs is to be considered in determining whether an
30 offender is a high-risk sex offender.

31 (G) Notwithstanding subparagraphs (A) to (D), inclusive, an
32 offender shall not be considered to be a high-risk sex offender if
33 either of the following apply:

34 (i) The offender's most recent conviction or arrest for an
35 offense described in subparagraphs (B) to (D), inclusive, occurred
36 more than five years prior to the high-risk assessment by the
37 Department of Justice, excluding periods of confinement.

38 (ii) The offender notifies the Department of Justice, on a form
39 approved by the department and available at any sheriff's office,
40 that he or she has not been convicted in the preceding 15 years,

1 excluding periods of confinement, of an offense for which
2 registration is required under paragraph (2) of subdivision (a), and
3 the department is able, upon exercise of reasonable diligence, to
4 verify the information provided in paragraph (2).

5 (H) “Confinement” means confinement in a jail, prison,
6 school, road camp, or other penal institution, confinement in a
7 state hospital to which the offender was committed as a mentally
8 disordered sex offender under Article 1 (commencing with
9 Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
10 and Institutions Code, or confinement in a facility designated by
11 the Director of Mental Health to which the offender was
12 committed as a sexually violent predator under Article 4
13 (commencing with Section 6600) of Chapter 2 of Part 2 of
14 Division 6 of the Welfare and Institutions Code.

15 (I) “Designated law enforcement entity” means any of the
16 following: municipal police department; sheriff’s department;
17 district attorney’s office; county probation department;
18 Department of Justice; Department of Corrections; Department of
19 the Youth Authority; Department of the California Highway
20 Patrol; or the police department of any campus of the University
21 of California, California State University, or community college.

22 (2) The Department of Justice shall continually search the
23 records provided to it pursuant to subdivision (b) and identify, on
24 the basis of those records, high-risk sex offenders. Four times each
25 year, the department shall provide to each chief of police and
26 sheriff in the state, and to any other designated law enforcement
27 entity upon request, the following information regarding each
28 identified high-risk sex offender: full name; known aliases;
29 gender; race; physical description; photograph; date of birth; and
30 crimes resulting in classification under this section.

31 (3) The Department of Justice and any designated law
32 enforcement entity to which notice has been given pursuant to
33 paragraph (2) may cause to be made public, by whatever means the
34 agency deems necessary to ensure the public safety, based upon
35 information available to the agency concerning a specific person,
36 including, but not limited to, the information described in
37 paragraph (2); the offender’s address, which shall be verified prior
38 to publication; description and license plate number of the
39 offender’s vehicles or vehicles the offender is known to drive; type
40 of victim targeted by the offender; relevant parole or probation

1 conditions, such as one prohibiting contact with children; dates of
2 crimes resulting in classification under this section; and date of
3 release from confinement; but excluding information that would
4 identify the victim.

5 (4) Notwithstanding any other provision of law, any person
6 described in paragraph (2) of subdivision (p) who receives
7 information from a designated law enforcement entity pursuant to
8 paragraph (3) may disclose that information in the manner and to
9 the extent authorized by the law enforcement entity.

10 (5) The law enforcement agency may authorize persons and
11 entities who receive the information pursuant to paragraph (3) to
12 disclose information to additional persons only if the agency does
13 the following:

14 (A) Determines that all conditions set forth in this subdivision
15 have been satisfied regarding disclosure to the additional persons.

16 (B) Identifies the appropriate scope of further disclosure.

17 (o) Agencies disseminating information to the public pursuant
18 to Section 290.4 shall maintain records of those persons requesting
19 to view the CD-ROM or other electronic media for a minimum of
20 five years. Agencies disseminating information to the public
21 pursuant to subdivision (n) shall maintain records of the means and
22 dates of dissemination for a minimum of five years.

23 (p) (1) Any law enforcement agency and employees of any
24 law enforcement agency shall be immune from liability for good
25 faith conduct under this section. For the purposes of this section,
26 “law enforcement agency” means the Attorney General of
27 California, every district attorney, the Department of Corrections,
28 the Department of the Youth Authority, and every state or local
29 agency expressly authorized by statute to investigate or prosecute
30 law violators.

31 (2) Any public or private educational institution, day care
32 facility, or any child care custodian described in Section 11165.7,
33 or any employee of a public or private educational institution or
34 day care facility which in good faith disseminates information as
35 authorized pursuant to paragraph (3) of subdivision (m) or
36 paragraph (4) of subdivision (n) that is provided by a law
37 enforcement agency or an employee of a law enforcement agency
38 shall be immune from civil liability.

39 (q) (1) Any person who uses information disclosed pursuant to
40 this section to commit a felony shall be punished, in addition and

1 consecutive to any other punishment, by a five-year term of
2 imprisonment in the state prison.

3 (2) Any person who uses information disclosed pursuant to this
4 section to commit a misdemeanor shall be subject to, in addition
5 to any other penalty or fine imposed, a fine of not less than five
6 hundred dollars (\$500) and not more than one thousand dollars
7 (\$1,000).

8 (r) The registration and public notification provisions of this
9 section are applicable to every person described in this section,
10 without regard to when his or her crimes were committed or his or
11 her duty to register pursuant to this section arose, and to every
12 offense described in this section, regardless of when it was
13 committed.

14 SEC. 172. Section 299.5 of the Penal Code is amended to
15 read:

16 299.5. (a) All DNA and forensic identification profiles and
17 other identification information retained by the Department of
18 Justice pursuant to this chapter are exempt from any law requiring
19 disclosure of information to the public and shall be confidential
20 except as otherwise provided in this chapter.

21 (b) All evidence and forensic samples containing biological
22 material retained by the Department of Justice DNA Laboratory
23 or other state law enforcement agency are exempt from any law
24 requiring disclosure of information to the public or the return of
25 biological specimens.

26 (c) Non-DNA forensic identification information may be filed
27 with the offender's file maintained by the Sex Registration Unit of
28 the Department of Justice or in other computerized data bank
29 systems maintained by the Department of Justice.

30 (d) The DNA and other forensic identification information
31 retained by the Department of Justice pursuant to this chapter shall
32 not be included in the state summary criminal history information.
33 However, nothing in this chapter precludes law enforcement
34 personnel from entering into a person's criminal history
35 information or offender file maintained by the Department of
36 Justice, the fact that the specimens, samples, and print impressions
37 required by this chapter have or have not been collected from that
38 person.

39 (e) The fact that the blood specimens, saliva samples, and print
40 impressions required by this chapter have been received by the

1 DNA Laboratory of the Department of Justice shall be included in
2 the state summary criminal history information.

3 The full palm prints of each hand shall be filed and maintained
4 by the Automated Latent Print Section of the Bureau of Criminal
5 Identification and Information of the Department of Justice, and
6 may be included in the state summary criminal history
7 information.

8 (f) DNA and other forensic identification information shall be
9 released only to law enforcement agencies, including, but not
10 limited to, parole officers of the Department of Corrections,
11 hearing officers of the parole authority, probation officers, the
12 Attorney General's office, district attorneys' offices, and
13 prosecuting city attorneys' offices, or to a court or administrative
14 tribunal, except as specified in this chapter. Dissemination of this
15 information to law enforcement agencies and district attorneys'
16 offices outside this state shall be performed in conformity with the
17 provisions of this chapter. A defendant's DNA and other forensic
18 identification information developed pursuant to this chapter shall
19 be available to his or her defense counsel upon court order made
20 pursuant to Chapter 10 (commencing with Section 1054) of Title
21 6 of Part 2.

22 (g) (1) (A) Any person who knowingly uses an offender
23 sample or DNA profile for other than criminal identification or
24 exclusion purposes, or who knowingly discloses DNA or other
25 forensic identification information developed pursuant to this
26 section to an unauthorized individual or agency, for other than
27 criminal identification or exclusion purposes, in violation of this
28 chapter, shall be punished by imprisonment in a county jail not
29 exceeding one year or by imprisonment in the state prison.

30 (B) Any person who, for the purpose of financial gain,
31 knowingly uses an offender sample or DNA profile for other than
32 criminal identification or exclusion purposes or who, for the
33 purpose of financial gain, knowingly discloses DNA or other
34 forensic identification information developed pursuant to this
35 section to an unauthorized individual or agency, for other than
36 criminal identification or exclusion purposes, in violation of this
37 chapter, shall, in addition to the penalty provided in subparagraph
38 (A), be punished by a criminal fine in an amount three times that
39 of any financial gain received or ten thousand dollars (\$10,000),
40 whichever is greater.

1 (2) (A) If any employee of the Department of Justice
2 knowingly uses an offender sample or DNA profile for other than
3 criminal identification or exclusion purposes, or knowingly
4 discloses DNA or other forensic identification information
5 developed pursuant to this section to an unauthorized individual
6 or agency, for other than criminal identification or exclusion
7 purposes, in violation of this chapter, the department shall be liable
8 in civil damages to the donor of the DNA identification
9 information in the amount of five thousand dollars (\$5,000) for
10 each violation, plus attorney's fees and costs. In the event of
11 multiple disclosures, the total damages available to the donor of
12 the DNA is limited to fifty thousand dollars (\$50,000) plus
13 attorney's fees and costs.

14 (B) (i) Notwithstanding any other law, this shall be the sole
15 and exclusive remedy against the Department of Justice and its
16 employees available to the donor of the DNA ~~against the~~
17 ~~Department of Justice and its employees.~~

18 (ii) The Department of Justice employee disclosing DNA
19 identification information in violation of this chapter shall be
20 absolutely immune from civil liability under this or any other law.

21 (3) It is not a violation of this section for a law enforcement
22 agency to publicly disclose the fact of a DNA profile match.

23 (h) It is not a violation of this chapter to furnish DNA or other
24 forensic identification information of the defendant to his or her
25 defense counsel for criminal defense purposes in compliance with
26 discovery.

27 (i) It is not a violation of this section to release DNA and other
28 forensic identification information developed pursuant to this
29 chapter to a jury or grand jury, or in a document filed with a court
30 or administrative agency, or as part of a judicial or administrative
31 proceeding, or for this information to become part of the public
32 transcript or record of proceedings.

33 (j) It is not a violation of this section to include information
34 obtained from a file in a transcript or record of a judicial
35 proceeding, or in any other public record when the inclusion of the
36 information in the public record is authorized by a court, statute,
37 or decisional law.

38 (k) It is not a violation of this section for the DNA Laboratory
39 of the Department of Justice or a local public laboratory to use

1 anonymous DNA records for training, research, statistical analysis
2 of populations, or quality control.

3 (l) It is not a violation of this section to disseminate statistical
4 or research information obtained from the offender's file, the
5 computerized data bank system, any of the DNA laboratory's data
6 bases, or the full palm print file, provided that the subject of the file
7 is not identified and cannot be identified from the information
8 disclosed. All requests for statistical or research information
9 obtained from the DNA data bank shall be cataloged by the
10 Department of Justice. Commencing January 1, 2000, the
11 department shall submit an annual letter to the Legislature
12 including, with respect to each request, the requester's name or
13 agency, the purpose of the request, whether the request is related
14 to a criminal investigation or court proceeding, whether the
15 request was granted or denied, any reasons for denial, costs
16 incurred or estimates of the cost of the request, and the date of the
17 request.

18 (m) The Department of Justice shall make public the
19 methodology and procedures to be used in its DNA program prior
20 to the commencement of DNA testing in its laboratories. The
21 Department of Justice shall review and consider on an ongoing
22 basis the findings and results of any peer review and validation
23 studies submitted to the department by members of the relevant
24 scientific community experienced in the use of DNA technology.
25 This material shall be available to criminal defense counsel upon
26 court order made pursuant to Chapter 10 (commencing with
27 Section 1054) of Title 6 of Part 2.

28 (n) In order to maintain the computer system security of the
29 Department of Justice DNA and forensic identification data base
30 and data bank program, the computer software and data base
31 structures used by the DNA Laboratory of the Department of
32 Justice to implement this chapter are confidential.

33 (o) Nothing in this section shall preclude a court from ordering
34 discovery pursuant to Chapter 10 (commencing with Section
35 1054) of Title 6 of Part 2.

36 SEC. 173. Section 637.5 of the Penal Code is amended to
37 read:

38 637.5. (a) No person who owns, controls, operates, or
39 manages a satellite or cable television corporation, or who leases
40 channels on a satellite or cable system shall:



1 (1) Use any electronic device to record, transmit, or observe
2 any events or listen to, record, or monitor any conversations ~~which~~
3 *that* take place inside a subscriber's residence, workplace, or place
4 of business, without obtaining the express written consent of the
5 subscriber. A satellite or cable television corporation may conduct
6 electronic sweeps of subscriber households to monitor for signal
7 quality.

8 (2) Provide any person with any individually identifiable
9 information regarding any of its subscribers, including, but not
10 limited to, the subscriber's television viewing habits, shopping
11 choices, interests, opinions, energy uses, medical information,
12 banking data or information, or any other personal or private
13 information, without the subscriber's express written consent.

14 (b) Individual subscriber viewing responses or other
15 individually identifiable information derived from subscribers
16 may be retained and used by a satellite or cable television
17 corporation only to the extent reasonably necessary for billing
18 purposes and internal business practices, and to monitor for
19 unauthorized reception of services. A satellite or cable television
20 corporation may compile, maintain, and distribute a list containing
21 the names and addresses of its subscribers if the list contains no
22 other individually identifiable information and if subscribers are
23 afforded the right to elect not to be included on ~~such a~~ *the* list.
24 However, a satellite or cable television corporation shall maintain
25 adequate safeguards to ensure the physical security and
26 confidentiality of ~~any such~~ *the* subscriber information.

27 (c) A satellite or cable television corporation shall not make
28 individual subscriber information available to government
29 agencies in the absence of legal compulsion, including, but not
30 limited to, a court order or subpoena. If requests for ~~such~~
31 information are made, a satellite or cable television corporation
32 shall promptly notify the subscriber of the nature of the request and
33 what government agency has requested the information prior to
34 responding unless otherwise prohibited from doing so by law.

35 Nothing in this section shall be construed to prevent local
36 franchising authorities from obtaining information necessary to
37 monitor franchise compliance pursuant to franchise or license
38 agreements. This information shall be provided so as to omit
39 individually identifiable subscriber information whenever
40 possible. Information obtained by local franchising authorities

1 shall be used solely for monitoring franchise compliance and shall
2 not be subject to the California Public Records Act (Chapter 3.5
3 (commencing with Section 6250); *of Division 7; of Title 1; of the*
4 *Government Code*).

5 (d) Any individually identifiable subscriber information
6 gathered by a satellite or cable television corporation shall be made
7 available for subscriber examination within 30 days of receiving
8 a request by a subscriber to examine ~~such~~ *the* information on the
9 premises of the corporation. Upon a reasonable showing by the
10 subscriber that the information is inaccurate, a satellite or cable
11 television corporation shall correct ~~such~~ *the* information.

12 (e) Upon a subscriber's application for satellite or cable
13 television service, including, but not limited to, interactive
14 service, a satellite or cable television corporation shall provide the
15 applicant with a separate notice in an appropriate form explaining
16 the subscriber's right to privacy protection afforded by this
17 section.

18 (f) As used in this section:

19 (1) "Cable television corporation" shall have the same
20 meaning as that term is given by Section 215.5 of the Public
21 Utilities Code.

22 (2) "Individually identifiable information" means any
23 information identifying an individual or his or her use of any
24 service provided by a satellite or cable system other than the mere
25 fact that ~~such~~ *the* individual is a satellite or cable television
26 subscriber. "Individually identifiable information" shall not
27 include anonymous, aggregate, or any other information that does
28 not identify an individual subscriber of a video provider service.

29 (3) "Person" includes an individual, business association,
30 partnership, corporation, limited liability company, or other legal
31 entity, and an individual acting or purporting to act for or on behalf
32 of any government, or subdivision thereof, whether federal, state,
33 or local.

34 (4) "Interactive service" means any service offered by a
35 satellite or cable television corporation involving the collection,
36 reception, aggregation, storage, or use of electronic information
37 transmitted from a subscriber to any other receiving point under
38 the control of the satellite or cable television corporation, or vice
39 versa.

(g) Nothing in this section shall be construed to limit the ability of a satellite or cable television corporation to market satellite or cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a satellite or cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any satellite or cable television corporation, service provider, or person that leases a channel or channels on a satellite or cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars (\$3,000), or by imprisonment in the county jail not exceeding one year, or by both ~~such~~ *that* fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(l) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

SEC. 174. Section 11174.4 of the Penal Code is amended to read:

11174.4. The following definitions shall govern the construction of this article, unless the context requires otherwise:

(a) “Elder” means any person who is 65 years of age or older.

(b) (1) “Abuse” means any of the conduct described in Article 2 (commencing *with* Section 15610) of Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) Abuse does not include the use of any reasonable and necessary force that may result in an injury used by a peace officer acting within the course of his or her employment as a peace officer.

SEC. 175. Section 12035 of the Penal Code is amended to read:

1 12035. (a) As used in this section, the following definitions
2 shall apply:

3 (1) “Locking device” means a device that is designed to
4 prevent the firearm from functioning and when applied to the
5 firearm, renders the firearm inoperable.

6 (2) “Loaded firearm” has the same meaning as set forth in
7 subdivision (g) of Section 12031.

8 (3) “Child” means a person under 18 years of age.

9 (4) “Great bodily injury” has the same meaning as set forth in
10 Section 12022.7.

11 (5) “Locked container” has the same meaning as set forth in
12 subdivision (d) of Section 12026.2.

13 (b) (1) Except as provided in subdivision (c), a person
14 commits the crime of “criminal storage of a firearm of the first
15 degree” if he or she keeps any loaded firearm within any premises
16 that are under his or her custody or control and he or she knows or
17 reasonably should know that a child is likely to gain access to the
18 firearm without the permission of the child’s parent or legal
19 guardian and the child obtains access to the firearm and thereby
20 causes death or great bodily injury to himself, herself, or any other
21 person.

22 (2) Except as provided in subdivision (c), a person commits the
23 crime of “criminal storage of a firearm of the second degree” if
24 he or she keeps any loaded firearm within any premises that are
25 under his or her custody or control and he or she knows or
26 reasonably should know that a child is likely to gain access to the
27 firearm without the permission of the child’s parent or legal
28 guardian and the child obtains access to the firearm and thereby
29 causes injury, other than great bodily injury, to himself, herself, or
30 any other person, or carries the firearm either to a public place or
31 in violation of Section 417.

32 (c) Subdivision (b) shall not apply whenever any of the
33 following occurs:

34 (1) The child obtains the firearm as a result of an illegal entry
35 to any premises by any person.

36 (2) The firearm is kept in a locked container or in a location that
37 a reasonable person would believe to be secure.

38 (3) The firearm is carried on the person or within such a close
39 proximity thereto so that the individual can readily retrieve and use
40 the firearm as if carried on the person.

1 (4) The firearm is locked with a locking device that has
2 rendered the firearm inoperable.

3 (5) The person is a peace officer or a member of the Armed
4 Forces or National Guard and the child obtains the firearm during,
5 or incidental to, the performance of the person's duties.

6 (6) The child obtains, or obtains and discharges, the firearm in
7 a lawful act of self-defense or defense of another person, or
8 persons.

9 (7) The person who keeps a loaded firearm on any premise that
10 is under his or her custody or control has no reasonable
11 expectation, based on objective facts and circumstances, that a
12 child is likely to be present on the premises.

13 (d) Criminal storage of a firearm is punishable as follows:

14 (1) Criminal storage of a firearm in the first degree, by
15 imprisonment in the state prison for 16 months, or two or three
16 years, by a fine not exceeding ten thousand dollars (\$10,000), or
17 by both that imprisonment and fine; or by imprisonment in a
18 county jail not exceeding one year, by a fine not exceeding one
19 thousand dollars (\$1,000), or by both that fine and imprisonment.

20 (2) Criminal storage of a firearm in the second degree, by
21 imprisonment in a county jail not exceeding one year, by a fine not
22 exceeding one thousand dollars (\$1,000), or by both that
23 imprisonment and fine.

24 (e) If the person who allegedly violated this section is the parent
25 or guardian of a child who is injured or who dies as the result of
26 an accidental shooting, the district attorney shall consider, among
27 other factors, the impact of the injury or death on the person
28 alleged to have violated this section when deciding whether to
29 prosecute an alleged violation. It is the Legislature's intent that a
30 parent or guardian of a child who is injured or who dies as the result
31 of an accidental shooting shall be prosecuted only in those
32 instances in which the parent or guardian behaved in a grossly
33 negligent manner or where similarly egregious circumstances
34 exist. This subdivision shall not otherwise restrict, in any manner,
35 the factors that a district attorney may consider when deciding
36 whether to prosecute alleged violations of this section.

37 (f) If the person who allegedly violated this section is the parent
38 or guardian of a child who is injured or who dies as the result of
39 an accidental shooting, no arrest of the person for the alleged

1 violation of this section shall occur until at least seven days after
2 the date upon which the accidental shooting occurred.

3 In addition to the limitation contained in this subdivision, a law
4 enforcement officer shall consider the health status of a child who
5 suffers great bodily injury as the result of an accidental shooting
6 prior to arresting a person for a violation of this section, if the
7 person to be arrested is the parent or guardian of the injured child.
8 The intent of this subdivision is to encourage law enforcement
9 officials to delay the arrest of a parent or guardian of a seriously
10 injured child while the child remains on life-support equipment or
11 is in a similarly critical medical condition.

12 (g) (1) The fact that the person who allegedly violated this
13 section attended a firearm safety training course prior to the
14 purchase of the firearm that is obtained by a child in violation of
15 this section shall be considered a mitigating factor by a district
16 attorney when he or she is deciding whether to prosecute the
17 alleged violation.

18 (2) In any action or trial commenced under this section, the fact
19 that the person who allegedly violated this section attended a
20 firearm safety training course prior to the purchase of the firearm
21 that is obtained by a child in violation of this section, shall be
22 admissible.

23 (h) Every person licensed under Section 12071 shall post
24 within the licensed premises the notice required by paragraph (7)
25 of subdivision (b) of that section, disclosing the duty imposed by
26 this section upon any person who keeps a loaded firearm.

27 SEC. 176. Section 12071 of the Penal Code is amended to
28 read:

29 12071. (a) (1) As used in this chapter, the term “licensee,”
30 “person licensed pursuant to Section 12071,” or “dealer” means
31 a person who has all of the following:

32 (A) A valid federal firearms license.

33 (B) Any regulatory or business license, or licenses, required by
34 local government.

35 (C) A valid seller’s permit issued by the State Board of
36 Equalization.

37 (D) A certificate of eligibility issued by the Department of
38 Justice pursuant to paragraph (4).

39 (E) A license issued in the format prescribed by paragraph (6).

1 (F) Is among those recorded in the centralized list specified in
2 subdivision (e).

3 (2) The duly constituted licensing authority of a city, county, or
4 a city and county shall accept applications for, and may grant
5 licenses permitting, licensees to sell firearms at retail within the
6 city, county, or city and county. The duly constituted licensing
7 authority shall inform applicants who are denied licenses of the
8 reasons for the denial in writing.

9 (3) No license shall be granted to any applicant who fails to
10 provide a copy of his or her valid federal firearms license, valid
11 seller's permit issued by the State Board of Equalization, and the
12 certificate of eligibility described in paragraph (4).

13 (4) A person may request a certificate of eligibility from the
14 Department of Justice and the Department of Justice shall issue a
15 certificate to an applicant if the department's records indicate that
16 the applicant is not a person who is prohibited from possessing
17 firearms.

18 (5) The department shall adopt regulations to administer the
19 certificate of eligibility program and shall recover the full costs of
20 administering the program by imposing fees assessed to applicants
21 who apply for those certificates.

22 (6) A license granted by the duly constituted licensing
23 authority of any city, county, or city and county, shall be valid for
24 not more than one year from the date of issuance and shall be in
25 one of the following forms:

26 (A) In the form prescribed by the Attorney General.

27 (B) A regulatory or business license that states on its face
28 "Valid for Retail Sales of Firearms" and is endorsed by the
29 signature of the issuing authority.

30 (C) A letter from the duly constituted licensing authority
31 having primary jurisdiction for the applicant's intended business
32 location stating that the jurisdiction does not require any form of
33 regulatory or business license or does not otherwise restrict or
34 regulate the sale of firearms.

35 (7) Local licensing authorities may assess fees to recover their
36 full costs of processing applications for licenses.

37 (b) A license is subject to forfeiture for a breach of any of the
38 following prohibitions and requirements:

1 (1) (A) Except as provided in subparagraphs (B) and (C), the
2 business shall be conducted only in the buildings designated in the
3 license.

4 (B) A person licensed pursuant to subdivision (a) may take
5 possession of firearms and commence preparation of registers for
6 the sale, delivery, or transfer of firearms at gun shows or events,
7 as defined in Section 178.100 of Title 27 of the Code of Federal
8 Regulations, or its successor, if the gun show or event is not
9 conducted from any motorized or towed vehicle. A person
10 conducting business pursuant to this subparagraph shall be entitled
11 to conduct business as authorized herein at any gun show or event
12 in the state without regard to the jurisdiction within this state that
13 issued the license pursuant to subdivision (a), provided the person
14 complies with (i) all applicable laws, including, but not limited to,
15 the waiting period specified in subparagraph (A) of paragraph (3),
16 and (ii) all applicable local laws, regulations, and fees, if any.

17 A person conducting business pursuant to this subparagraph
18 shall publicly display his or her license issued pursuant to
19 subdivision (a), or a facsimile thereof, at any gun show or event,
20 as specified in this subparagraph.

21 (C) A person licensed pursuant to subdivision (a) may engage
22 in the sale and transfer of firearms other than pistols, revolvers, or
23 other firearms capable of being concealed upon the person, at
24 events specified in subdivision (g) of Section 12078, subject to the
25 prohibitions and restrictions contained in that subdivision.

26 A person licensed pursuant to subdivision (a) also may accept
27 delivery of firearms other than pistols, revolvers, or other firearms
28 capable of being concealed upon the person, outside the building
29 designated in the license, provided the firearm is being donated for
30 the purpose of sale or transfer at an auction or similar event
31 specified in subdivision (g) of Section 12078.

32 (D) The firearm may be delivered to the purchaser, transferee,
33 or person being loaned the firearm at one of the following places:

34 (i) The building designated in the license.

35 (ii) The places specified in subparagraph (B) or (C).

36 (iii) The place of residence of, the fixed place of business of,
37 or on private property owned or lawfully possessed by, the
38 purchaser, transferee, or person being loaned the firearm.

1 (2) The license or a copy thereof, certified by the issuing
2 authority, shall be displayed on the premises where it can easily be
3 seen.

4 (3) No firearm shall be delivered:

5 (A) Within 10 days of the application to purchase, or, after
6 notice by the department pursuant to subdivision (d) of Section
7 12076, within 10 days of the submission to the department of any
8 correction to the application, or within 10 days of the submission
9 to the department of any fee required pursuant to subdivision (e)
10 of Section 12076, whichever is later.

11 (B) Unless unloaded and securely wrapped or unloaded and in
12 a locked container.

13 (C) Unless the purchaser, transferee, or person being loaned the
14 firearm presents clear evidence of his or her identity and age to the
15 dealer.

16 (D) Whenever the dealer is notified by the Department of
17 Justice that the person is in a prohibited class described in Section
18 12021 or 12021.1 of this code or Section 8100 or 8103 of the
19 Welfare and Institutions Code. The dealer shall make available to
20 the person in the prohibited class a prohibited notice and transfer
21 form, provided by the department, stating that the person is
22 prohibited from owning or possessing a firearm, and that the
23 person may obtain from the department the reason for the
24 prohibition.

25 (4) No pistol, revolver, or other firearm or imitation thereof
26 capable of being concealed upon the person, or placard advertising
27 the sale or other transfer thereof, shall be displayed in any part of
28 the premises where it can readily be seen from the outside.

29 (5) The licensee shall agree to and shall act properly and
30 promptly in processing firearms transactions pursuant to Section
31 12082.

32 (6) The licensee shall comply with Sections 12073, 12076, and
33 12077, subdivisions (a) and (b) of Section 12072, and subdivision
34 (a) of Section 12316.

35 (7) The licensee shall post conspicuously within the licensed
36 premises the following warnings in block letters not less than one
37 inch in height:

38 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
39 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
40 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND

1 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
2 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
3 MISDEMEANOR OR A FELONY UNLESS YOU STORED
4 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
5 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
6 FROM TEMPORARILY FUNCTIONING.”

7 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
8 FIREARM CAPABLE OF BEING CONCEALED UPON THE
9 PERSON, WITHIN ANY PREMISES UNDER YOUR
10 CUSTODY OR CONTROL, AND A PERSON UNDER 18
11 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
12 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A
13 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
14 A LOCKED CONTAINER, OR LOCKED THE FIREARM
15 WITH A LOCKING DEVICE, TO KEEP IT FROM
16 TEMPORARILY FUNCTIONING.”

17 (C) “IF YOU KEEP ANY FIREARM WITHIN ANY
18 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
19 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
20 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
21 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
22 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
23 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
24 STORED THE FIREARM IN A LOCKED CONTAINER, OR
25 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

26 (D) “DISCHARGING FIREARMS IN POORLY
27 VENTILATED AREAS, CLEANING FIREARMS, OR
28 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
29 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
30 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
31 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
32 ALL TIMES. WASH HANDS THOROUGHLY AFTER
33 EXPOSURE.”

34 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
35 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
36 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
37 DAYS AFTER YOU COMPLETE THE INITIAL
38 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
39 TO GO THROUGH THE BACKGROUND CHECK PROCESS



1 A SECOND TIME IN ORDER TO TAKE PHYSICAL
2 POSSESSION OF THAT FIREARM.”

3 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
4 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
5 OTHER FIREARM CAPABLE OF BEING CONCEALED
6 UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND
7 NO DELIVERY SHALL BE MADE TO ANY PERSON WHO
8 HAS MADE AN APPLICATION TO PURCHASE MORE
9 THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM
10 CAPABLE OF BEING CONCEALED UPON THE PERSON
11 WITHIN ANY 30-DAY PERIOD.”

12 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
13 no pistol, revolver, or other firearm capable of being concealed
14 upon the person shall be delivered unless the purchaser, transferee,
15 or person being loaned the firearm presents to the dealer a basic
16 firearms safety certificate.

17 (B) Commencing January 1, 2003, no dealer may deliver a
18 handgun unless the person receiving the handgun presents to the
19 dealer a valid handgun safety certificate. The firearms dealer shall
20 retain a photocopy of the handgun safety certificate as proof of
21 compliance with this requirement.

22 (C) Commencing January 1, 2003, no handgun may be
23 delivered unless the purchaser, transferee, or person being loaned
24 the firearm presents documentation indicating that he or she is a
25 California resident. Satisfactory documentation shall include a
26 utility bill from within the last three months, a residential lease, a
27 property deed, or military permanent duty station orders indicating
28 assignment within this state, or other evidence of residency as
29 permitted by the Department of Justice. The firearms dealer shall
30 retain a photocopy of the documentation as proof of compliance
31 with this requirement.

32 (D) Commencing January 1, 2003, except as authorized by the
33 department, no firearms dealer may deliver a handgun unless the
34 recipient performs a safe handling demonstration with that
35 handgun. The demonstration shall commence with the handgun
36 unloaded and locked with the firearm safety device with which it
37 is required to be delivered, if applicable. While maintaining
38 muzzle awareness, that is, the firearm is pointed in a safe direction,
39 preferably down at the ground, and trigger discipline, that is, the
40 trigger finger is outside of the trigger guard and along side of the

1 handgun frame, at all times, the handgun recipient shall correctly
2 and safely perform the following:

3 (i) If the handgun is a semiautomatic pistol:

4 (I) Remove the magazine.

5 (II) Lock the slide back. If the model of firearm does not allow
6 the slide to be locked back, pull the slide back, visually and
7 physically check the chamber to ensure that it is clear.

8 (III) Visually and physically inspect the chamber, to ensure that
9 the handgun is unloaded.

10 (IV) Remove the firearm safety device, if applicable. If the
11 firearm safety device prevents any of the previous steps, remove
12 the firearm safety device during the appropriate step.

13 (V) Load one bright orange dummy round into the magazine.

14 (VI) Insert the magazine into the magazine well of the firearm.

15 (VII) Manipulate the slide release or pull back and release the
16 slide.

17 (VIII) Remove the magazine.

18 (IX) Visually inspect the chamber to reveal that a round can be
19 chambered with the magazine removed.

20 (X) Lock the slide back to eject the bright orange dummy
21 round. If the handgun is of a model that does not allow the slide
22 to be locked back, pull the slide back and physically check the
23 chamber to ensure that the chamber is clear.

24 (XI) Apply the safety, if applicable.

25 (XII) Apply the firearm safety device, if applicable.

26 (ii) If the handgun is a double-action revolver:

27 (I) Open the cylinder.

28 (II) Visually and physically inspect each chamber, to ensure
29 that the revolver is unloaded.

30 (III) Remove the firearm safety device. If the firearm safety
31 device prevents any of the previous steps, remove the firearm
32 safety device during the appropriate step.

33 (IV) While maintaining muzzle awareness and trigger
34 discipline, load one bright orange dummy round into a chamber of
35 the cylinder and rotate the cylinder so that the round is in the
36 next-to-fire position.

37 (V) Close the cylinder.

38 (VI) Open the cylinder and eject the round.

39 (VII) Visually and physically inspect each chamber to ensure
40 that the revolver is unloaded.



1 (VIII) Apply the firearm safety device, if applicable.

2 (iii) If the handgun is a single-action revolver:

3 (I) Open the loading gate.

4 (II) Visually and physically inspect each chamber, to ensure
5 that the revolver is unloaded.

6 (III) Remove the firearm safety device required to be sold with
7 the handgun. If the firearm safety device prevents any of the
8 previous steps, remove the firearm safety device during the
9 appropriate step.

10 (IV) Load one bright orange dummy round into a chamber of
11 the cylinder, close the loading gate and rotate the cylinder so that
12 the round is in the next-to-fire position.

13 (V) Open the loading gate and unload the revolver.

14 (VI) Visually and physically inspect each chamber to ensure
15 that the revolver is unloaded.

16 (VII) Apply the firearm safety device, if applicable.

17 (E) The recipient shall receive instruction regarding how to
18 render that handgun safe in the event of a jam.

19 (F) The firearms dealer shall sign and date an affidavit stating
20 that the requirements of subparagraph (D) have been met. The
21 firearms dealer shall additionally obtain the signature of the
22 handgun purchaser on the same affidavit. The firearms dealer shall
23 retain the original affidavit as proof of compliance with this
24 requirement.

25 (G) The recipient shall perform the safe handling
26 demonstration for a department certified instructor.

27 (H) No demonstration shall be required if the dealer is
28 returning the handgun to the owner of the handgun.

29 (I) Department certified instructors who may administer the
30 safe handling demonstration shall meet the requirements set forth
31 in subdivision (j) of Section 12804.

32 (J) The persons who are exempt from the requirements of
33 subdivision (b) of Section 12801, pursuant to Section 12807, are
34 also exempt from performing the safe handling demonstration.

35 (9) Commencing July 1, 1992, the licensee shall offer to
36 provide the purchaser or transferee of a firearm, or person being
37 loaned a firearm, with a copy of the pamphlet described in Section
38 12080 and may add the cost of the pamphlet, if any, to the sales
39 price of the firearm.

1 (10) The licensee shall not commit an act of collusion as
2 defined in Section 12072.

3 (11) The licensee shall post conspicuously within the licensed
4 premises a detailed list of each of the following:

5 (A) All charges required by governmental agencies for
6 processing firearm transfers required by Sections 12076, 12082,
7 and 12806.

8 (B) All fees that the licensee charges pursuant to Sections
9 12082 and 12806.

10 (12) The licensee shall not misstate the amount of fees charged
11 by a governmental agency pursuant to Sections 12076, 12082, and
12 12806.

13 (13) The licensee shall report the loss or theft of any firearm
14 that is merchandise of the licensee, any firearm that the licensee
15 takes possession of pursuant to Section 12082, or any firearm kept
16 at the licensee's place of business within 48 hours of discovery to
17 the appropriate law enforcement agency in the city, county, or city
18 and county where the licensee's business premises are located.

19 (14) In a city and county, or in the unincorporated area of a
20 county with a population of 200,000 persons or more according to
21 the most recent federal decennial census or within a city with a
22 population of 50,000 persons or more according to the most recent
23 federal decennial census, any time the licensee is not open for
24 business, the licensee shall store all firearms kept in his or her
25 licensed place of business using one of the following methods as
26 to each particular firearm:

27 (A) Store the firearm in a secure facility that is a part of, or that
28 constitutes, the licensee's business premises.

29 (B) Secure the firearm with a hardened steel rod or cable of at
30 least one-eighth inch in diameter through the trigger guard of the
31 firearm. The steel rod or cable shall be secured with a hardened
32 steel lock that has a shackle. The lock and shackle shall be
33 protected or shielded from the use of a bolt cutter and the rod or
34 cable shall be anchored in a manner that prevents the removal of
35 the firearm from the premises.

36 (C) Store the firearm in a locked fireproof safe or vault in the
37 licensee's business premises.

38 (15) The licensing authority in an unincorporated area of a
39 county with a population *of* less than 200,000 persons according
40 to the most recent federal decennial census or within a city with a

1 population of less than 50,000 persons according to the most recent
2 federal decennial census may impose the requirements specified
3 in paragraph (14).

4 (16) Commencing January 1, 1994, the licensee shall, upon the
5 issuance or renewal of a license, submit a copy of the same to the
6 Department of Justice.

7 (17) The licensee shall maintain and make available for
8 inspection during business hours to any peace officer, authorized
9 local law enforcement employee, or Department of Justice
10 employee designated by the Attorney General, upon the
11 presentation of proper identification, a firearms transaction
12 record.

13 (18) (A) On the date of receipt, the licensee shall report to the
14 Department of Justice in a format prescribed by the department the
15 acquisition by the licensee of the ownership of a pistol, revolver,
16 or other firearm capable of being concealed upon the person.

17 (B) The provisions of this paragraph shall not apply to any of
18 the following transactions:

19 (i) A transaction subject to the provisions of subdivision (n) of
20 Section 12078.

21 (ii) The dealer acquired the firearm from a wholesaler.

22 (iii) The dealer is also licensed as a secondhand dealer pursuant
23 to Article 4 (commencing with Section 21625) of Chapter 9 of
24 Division 8 of the Business and Professions Code.

25 (iv) The dealer acquired the firearm from a person who is
26 licensed as a manufacturer or importer to engage in those activities
27 pursuant to Chapter 44 (commencing with Section 921) of Title 18
28 of the United States Code and any regulations issued pursuant
29 thereto.

30 (v) The dealer acquired the firearm from a person who resides
31 outside this state who is licensed pursuant to Chapter 44
32 (commencing with Section 921) of Title 18 of the United States
33 Code and any regulations issued pursuant thereto.

34 (19) The licensee shall forward in a format prescribed by the
35 Department of Justice, information as required by the department
36 on any firearm that is not delivered within the time period set forth
37 in Section 178.102 (c) of Title 27 of the Code of Federal
38 Regulations.

39 (c) (1) As used in this article, “clear evidence of his or her
40 identity and age” means either of the following:

1 (A) A valid California driver's license.

2 (B) A valid California identification card issued by the
3 Department of Motor Vehicles.

4 (2) As used in this section, a "secure facility" means a building
5 that meets all of the following specifications:

6 (A) All perimeter doorways shall meet one of the following:

7 (i) A windowless steel security door equipped with both a dead
8 bolt and a doorknob lock.

9 (ii) A windowed metal door that is equipped with both a dead
10 bolt and a doorknob lock. If the window has an opening of five
11 inches or more measured in any direction, the window shall be
12 covered with steel bars of at least one-half inch diameter or metal
13 grating of at least nine gauge affixed to the exterior or interior of
14 the door.

15 (iii) A metal grate that is padlocked and affixed to the licensee's
16 premises independent of the door and doorframe.

17 (B) All windows are covered with steel bars.

18 (C) Heating, ventilating, air-conditioning, and service
19 openings are secured with steel bars, metal grating, or an alarm
20 system.

21 (D) Any metal grates have spaces no larger than six inches wide
22 measured in any direction.

23 (E) Any metal screens have spaces no larger than three inches
24 wide measured in any direction.

25 (F) All steel bars shall be no further than six inches apart.

26 (3) As used in this section, "licensed premises," "licensed
27 place of business," "licensee's place of business," or "licensee's
28 business premises" means the building designated in the license.

29 (4) For purposes of paragraph (17) of subdivision (b):

30 (A) A "firearms transaction record" is a record containing the
31 same information referred to in subdivision (a) of Section
32 178.124, Section 178.124a, and subdivision (e) of Section
33 178.125 of Title 27 of the Code of Federal Regulations.

34 (B) A licensee shall be in compliance with the provisions of
35 paragraph (17) of subdivision (b) if he or she maintains and makes
36 available for inspection during business hours to any peace officer,
37 authorized local law enforcement employee, or Department of
38 Justice employee designated by the Attorney General, upon the
39 presentation of proper identification, the bound book containing
40 the same information referred to in Section 178.124a and

subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e),

1 including the cost of inspections. Dealers whose place of business
2 is in a jurisdiction that has adopted an inspection program to ensure
3 compliance with firearms law shall be exempt from that portion of
4 the department's fee that relates to the cost of inspections. The
5 applicant is responsible for providing evidence to the department
6 that the jurisdiction in which the business is located has the
7 inspection program.

8 (g) The Department of Justice shall maintain and make
9 available upon request information concerning the number of
10 inspections conducted and the amount of fees collected pursuant
11 to subdivision (f), a listing of exempted jurisdictions, as defined
12 in subdivision (f), the number of dealers removed from the
13 centralized list defined in subdivision (e), and the number of
14 dealers found to have violated this article with knowledge or gross
15 negligence.

16 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
17 a licensee organized as a nonprofit public benefit or mutual benefit
18 corporation organized pursuant to Part 2 (commencing with
19 Section 5110) or Part 3 (commencing with Section 7110) of
20 Division 2 of the Corporations Code, if both of the following
21 conditions are satisfied:

22 (1) The nonprofit public benefit or mutual benefit corporation
23 obtained the dealer's license solely and exclusively to assist that
24 corporation or local chapters of that corporation in conducting
25 auctions or similar events at which firearms are auctioned off to
26 fund the activities of that corporation or the local chapters of the
27 corporation.

28 (2) The firearms are not pistols, revolvers, or other firearms
29 capable of being concealed upon the person.

30 SEC. 177. Section 12078 of the Penal Code is amended to
31 read:

32 12078. (a) (1) The waiting periods described in Sections
33 12071, 12072, and 12084 shall not apply to deliveries, transfers,
34 or sales of firearms made to persons properly identified as
35 full-time paid peace officers as defined in Chapter 4.5
36 (commencing with Section 830) of Title 3 of Part 2, provided that
37 the peace officers are authorized by their employer to carry
38 firearms while in the performance of their duties. Proper
39 identification is defined as verifiable written certification from the
40 head of the agency by which the purchaser or transferee is

1 employed, identifying the purchaser or transferee as a peace
2 officer who is authorized to carry firearms while in the
3 performance of his or her duties, and authorizing the purchase or
4 transfer. The certification shall be delivered to the dealer or local
5 law enforcement agency acting pursuant to Section 12084 at the
6 time of purchase or transfer and the purchaser or transferee shall
7 identify himself or herself as the person authorized in the
8 certification. The dealer or local law enforcement agency shall
9 keep the certification with the record of sale, or LEFT, as the case
10 may be. On the date that the delivery, sale, or transfer is made, the
11 dealer delivering the firearm or the law enforcement agency
12 processing the transaction pursuant to Section 12084 shall forward
13 by prepaid mail to the Department of Justice a report of the
14 transaction pursuant to subdivision (b) or (c) of Section 12077 or
15 Section 12084. If electronic or telephonic transfer of applicant
16 information is used, on the date that the application to purchase is
17 completed, the dealer delivering the firearm shall transmit to the
18 Department of Justice an electronic or telephonic report of the
19 transaction as is indicated in subdivision (b) or (c) of Section
20 12077.

21 (2) Subdivision (b) of Section 12801 and the preceding
22 provisions of this article do not apply to deliveries, transfers, or
23 sales of firearms made to authorized law enforcement
24 representatives of cities, counties, cities and counties, or state or
25 federal governments for exclusive use by those governmental
26 agencies if, prior to the delivery, transfer, or sale of these firearms,
27 written authorization from the head of the agency authorizing the
28 transaction is presented to the person from whom the purchase,
29 delivery, or transfer is being made. Proper written authorization is
30 defined as verifiable written certification from the head of the
31 agency by which the purchaser or transferee is employed,
32 identifying the employee as an individual authorized to conduct
33 the transaction, and authorizing the transaction for the exclusive
34 use of the agency by which he or she is employed. Within 10 days
35 of the date a pistol, revolver, or other firearm capable of being
36 concealed upon the person is acquired by the agency, a record of
37 the same shall be entered as an institutional weapon into the
38 Automated Firearms System (AFS) via the California Law
39 Enforcement Telecommunications System (CLETS) by the law
40 enforcement or state agency. Those agencies without access to



1 AFS shall arrange with the sheriff of the county in which the
2 agency is located to input this information via this system.

3 (3) Subdivision (b) of Section 12801 and the preceding
4 provisions of this article do not apply to the loan of a firearm made
5 by an authorized law enforcement representative of a city, county,
6 or city and county, or the state or federal government to a peace
7 officer employed by that agency and authorized to carry a firearm
8 for the carrying and use of that firearm by that peace officer in the
9 course and scope of his or her duties.

10 (4) Subdivision (b) of Section 12801 and the preceding
11 provisions of this article do not apply to the delivery, sale, or
12 transfer of a firearm by a law enforcement agency to a peace officer
13 pursuant to Section 10334 of the Public Contract Code. Within 10
14 days of the date that a pistol, revolver, or other firearm capable of
15 being concealed upon the person is sold, delivered, or transferred
16 pursuant to Section 10334 of the Public Contract Code to that
17 peace officer, the name of the officer and the make, model, serial
18 number, and other identifying characteristics of the firearm being
19 sold, transferred, or delivered shall be entered into the Automated
20 Firearms System (AFS) via the California Law Enforcement
21 Telecommunications System (CLETS) by the law enforcement or
22 state agency that sold, transferred, or delivered the firearm. Those
23 agencies without access to AFS shall arrange with the sheriff of the
24 county in which the agency is located to input this information via
25 this system.

26 (5) Subdivision (b) of Section 12801 and the preceding
27 provisions of this article do not apply to the delivery, sale, or
28 transfer of a firearm by a law enforcement agency to a retiring
29 peace officer who is authorized to carry a firearm pursuant to
30 Section 12027.1. Within 10 days of the date that a pistol, revolver,
31 or other firearm capable of being concealed upon the person is
32 sold, delivered, or transferred to that retiring peace officer, the
33 name of the officer and the make, model, serial number, and other
34 identifying characteristics of the firearm being sold, transferred,
35 or delivered shall be entered into the Automated Firearms System
36 (AFS) via the California Law Enforcement Telecommunications
37 System (CLETS) by the law enforcement or state agency that sold,
38 transferred, or delivered the firearm. Those agencies without
39 access to AFS shall arrange with the sheriff of the county in which
40 the agency is located to input this information via this system.



1 (6) Subdivision (d) of Section 12072 and subdivision (b) of
2 Section 12801 do not apply to sales, deliveries, or transfers of
3 firearms to authorized representatives of cities, cities and counties,
4 counties, or state or federal governments for those governmental
5 agencies where the entity is acquiring the weapon as part of an
6 authorized, voluntary program where the entity is buying or
7 receiving weapons from private individuals. Any weapons
8 acquired pursuant to this paragraph shall be disposed of pursuant
9 to the applicable provisions of Section 12028 or 12032.

10 (7) Subdivision (d) of Section 12072 and subdivision (b) of
11 Section 12801 shall not apply to the sale, loan, delivery, or transfer
12 of a firearm made by an authorized law enforcement
13 representative of a city, county, city and county, state, or the federal
14 government to any public or private nonprofit historical society,
15 museum, or institutional collection or the purchase or receipt of
16 that firearm by such public or private nonprofit historical society,
17 museum, or institutional collection if all of the following
18 conditions are met:

19 (A) The entity receiving the firearm is open to the public.

20 (B) The firearm prior to delivery is deactivated or rendered
21 inoperable.

22 (C) The firearm is not subject to Section 12028, 12028.5,
23 12030, or 12032.

24 (D) The firearm is not prohibited by other provisions of law
25 from being sold, delivered, or transferred to the public at large.

26 (E) Prior to delivery, the entity receiving the firearm submits
27 a written statement to the law enforcement representative stating
28 that the firearm will not be restored to operating condition, and will
29 either remain with that entity, or if subsequently disposed of, will
30 be transferred in accordance with the applicable provisions of this
31 article and, if applicable, Section 12801.

32 (F) Within 10 days of the date that the firearm is sold, loaned,
33 delivered, or transferred to that entity, the name of the government
34 entity delivering the firearm, and the make, model, serial number,
35 and other identifying characteristics of the firearm and the name
36 of the person authorized by the entity to take possession of the
37 firearm shall be reported to the department in a manner prescribed
38 by the department.

1 (G) In the event of a change in the status of the designated
2 representative, the entity shall notify the department of a new
3 representative within 30 days.

4 (8) Subdivision (d) of Section 12072 and subdivision (b) of
5 Section 12801 shall not apply to the sale, loan, delivery, or transfer
6 of a firearm made by any person other than a representative of an
7 authorized law enforcement agency to any public or private
8 nonprofit historical society, museum, or institutional collection if
9 all of the following conditions are met:

10 (A) The entity receiving the firearm is open to the public.

11 (B) The firearm is deactivated or rendered inoperable prior to
12 delivery.

13 (C) The firearm is not of a type prohibited from being sold,
14 delivered, or transferred to the public.

15 (D) Prior to delivery, the entity receiving the firearm submits
16 a written statement to the person selling, loaning, or transferring
17 the firearm stating that the firearm will not be restored to operating
18 condition, and will either remain with that entity, or if
19 subsequently disposed of, will be transferred in accordance with
20 the applicable, provisions of this article and, if applicable, Section
21 12801.

22 (E) If title to a handgun is being transferred to the public or
23 private nonprofit historical society, museum, or institutional
24 collection, then the designated representative of that public or
25 private historical society, museum, or institutional collection
26 within 30 days of taking possession of that handgun, shall forward
27 by prepaid mail or deliver in person to the Department of Justice,
28 a single report signed by both parties to the transaction, that
29 includes information identifying the person representing that
30 public or private historical society, museum, or institutional
31 collection, how title was obtained and from whom, and a
32 description of the firearm in question, along with a copy of the
33 written statement referred to in subparagraph (D). The report
34 forms that are to be completed pursuant to this paragraph shall be
35 provided by the Department of Justice.

36 (F) In the event of a change in the status of the designated
37 representative, the entity shall notify the department of a new
38 representative within 30 days.

39 (b) (1) Section 12071, subdivisions (c) and (d) of Section
40 12072, and subdivision (b) of Section 12801 shall not apply to

1 deliveries, sales, or transfers of firearms between or to importers
2 and manufacturers of firearms licensed to engage in that business
3 pursuant to Chapter 44 (commencing with Section 921) of Title 18
4 of the United States Code and the regulations issued pursuant
5 thereto.

6 (2) Subdivision (b) of Section 12801 shall not apply to the
7 delivery, sale, or transfer of a handgun to a person licensed
8 pursuant to Section 12071, where the licensee is receiving the
9 handgun in the course and scope of his or her activities as a person
10 licensed pursuant to Section 12071.

11 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
12 infrequent transfer of a firearm that is not a pistol, revolver, or
13 other firearm capable of being concealed upon the person by gift,
14 bequest, intestate succession, or other means by one individual to
15 another if both individuals are members of the same immediate
16 family.

17 (2) Subdivision (d) of Section 12072 shall not apply to the
18 infrequent transfer of a pistol, revolver, or other firearm capable
19 of being concealed upon the person by gift, bequest, intestate
20 succession, or other means by one individual to another if both
21 individuals are members of the same immediate family and both
22 of the following conditions are met:

23 (A) The person to whom the firearm is transferred shall, within
24 30 days of taking possession of the firearm, forward by prepaid
25 mail or deliver in person to the Department of Justice, a report that
26 includes information concerning the individual taking possession
27 of the firearm, how title was obtained and from whom, and a
28 description of the firearm in question. The report forms that
29 individuals complete pursuant to this paragraph shall be provided
30 to them by the Department of Justice.

31 (B) If taking possession of the firearm prior to January 1, 2003,
32 the person taking title to the firearm shall first obtain a basic
33 firearms safety certificate. If taking possession on or after January
34 1, 2003, the person taking title to the firearm shall first obtain a
35 handgun safety certificate.

36 (3) As used in this subdivision, “immediate family member”
37 means any one of the following relationships:

38 (A) Parent and child.

39 (B) Grandparent and grandchild.

(d) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited from owning or possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by Section 8100 or 8103 of the Welfare and Institutions Code.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18 years of age or older.

(e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit

1 corporation from conducting auctions or similar events, provided
2 the individual local chapter conducts the auctions or similar events
3 infrequently. It is the intent of the Legislature that different local
4 chapters, representing different localities, be entitled to invoke the
5 exemption created by this paragraph, notwithstanding the
6 frequency with which other chapters of the same nonprofit
7 corporation may conduct auctions or similar events.

8 (2) Subdivision (d) of Section 12072 shall not apply to the
9 transfer of a firearm other than a pistol, revolver, or other firearm
10 capable of being concealed upon the person, if the firearm is
11 donated for an auction or similar event described in paragraph (1)
12 and the firearm is delivered to the nonprofit corporation
13 immediately preceding, or contemporaneous with, the auction or
14 similar event.

15 (3) The waiting period described in Sections 12071 and 12072
16 shall not apply to a dealer who delivers a firearm other than a
17 pistol, revolver, or other firearm capable of being concealed upon
18 the person, at an auction or similar event described in paragraph
19 (1), as authorized by subparagraph (C) of paragraph (1) of
20 subdivision (b) of Section 12071. Within two business days of
21 completion of the application to purchase, the dealer shall forward
22 by prepaid mail to the Department of Justice a report of the same
23 as is indicated in subdivision (c) of Section 12077. If the electronic
24 or telephonic transfer of applicant information is used, within two
25 business days of completion of the application to purchase, the
26 dealer delivering the firearm shall transmit to the Department of
27 Justice an electronic or telephonic report of the same as is indicated
28 in subdivision (c) of Section 12077.

29 (h) Subdivision (d) of Section 12072 and subdivision (b) of
30 Section 12801 shall not apply to the loan of a firearm to a person
31 18 years of age or older for the purposes of shooting at targets if
32 the loan occurs on the premises of a target facility that holds a
33 business or regulatory license or on the premises of any club or
34 organization organized for the purposes of practicing shooting at
35 targets upon established ranges, whether public or private, if the
36 firearm is at all times kept within the premises of the target range
37 or on the premises of the club or organization.

38 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
39 person who takes title or possession of a firearm that is not a pistol,
40 revolver, or other firearm capable of being concealed upon the



1 person by operation of law if the person is not prohibited by
2 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
3 the Welfare and Institutions Code from possessing firearms.

4 (2) Subdivision (d) of Section 12072 shall not apply to a person
5 who takes title or possession of a pistol, revolver, or other firearm
6 capable of being concealed upon the person by operation of law if
7 the person is not prohibited by Section 12021 or 12021.1 of this
8 code or Section 8100 or 8103 of the Welfare and Institutions Code
9 from possessing firearms and all of the following conditions are
10 met:

11 (A) If the person taking title or possession is neither a levying
12 officer as defined in Section 481.140, 511.060, or 680.210 of the
13 Code of Civil Procedure, nor a person who is receiving that firearm
14 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of
15 subdivision (u), the person shall, within 30 days of taking
16 possession, forward by prepaid mail or deliver in person to the
17 Department of Justice, a report of information concerning the
18 individual taking possession of the firearm, how title or possession
19 was obtained and from whom, and a description of the firearm in
20 question. The reports that individuals complete pursuant to this
21 paragraph shall be provided to them by the department.

22 (B) If the person taking title or possession is receiving the
23 firearm pursuant to subparagraph (G) of paragraph (2) of
24 subdivision (u), the person shall do both of the following:

25 (i) Within 30 days of taking possession, forward by prepaid
26 mail or deliver in person to the department, a report of information
27 concerning the individual taking possession of the firearm, how
28 title or possession was obtained and from whom, and a description
29 of the firearm in question. The reports that individuals complete
30 pursuant to this paragraph shall be provided to them by the
31 department.

32 (ii) Prior to taking title or possession of the firearm, if title or
33 possession is taken prior to January 1, 2003, the person shall either
34 obtain a basic firearms safety certificate or be exempt from
35 obtaining a basic firearms safety certificate pursuant to Section
36 12081. Prior to taking title or possession of the firearm, if title or
37 possession is taken on or after January 1, 2003, the person shall
38 obtain a handgun safety certificate.

39 (C) Where the person receiving title or possession of the pistol,
40 revolver, or other firearm capable of being concealed upon the

1 person is a person described in subparagraph (I) of paragraph (2)
2 of subdivision (u), on the date that the person is delivered the
3 firearm, the name and other information concerning the person
4 taking possession of the firearm, how title or possession of the
5 firearm was obtained and from whom, and a description of the
6 firearm by make, model, serial number, and other identifying
7 characteristics, shall be entered into the Automated Firearms
8 System (AFS) via the California Law Enforcement
9 Telecommunications System (CLETS) by the law enforcement or
10 state agency that transferred or delivered the firearm. Those
11 agencies without access to AFS shall arrange with the sheriff of the
12 county in which the agency is located to input this information via
13 this system.

14 (D) Where the person receiving title or possession of the pistol,
15 revolver, or other firearm capable of being concealed upon the
16 person is a person described in subparagraph (J) of paragraph (2)
17 of subdivision (u), on the date that the person is delivered the
18 firearm, the name and other information concerning the person
19 taking possession of the firearm, how title or possession of the
20 firearm was obtained and from whom, and a description of the
21 firearm by make, model, serial number, and other identifying
22 characteristics, shall be entered into the AFS via the CLETS by the
23 law enforcement or state agency that transferred or delivered the
24 firearm. Those agencies without access to AFS shall arrange with
25 the sheriff of the county in which the agency is located to input this
26 information via this system. In addition, that law enforcement
27 agency shall not deliver that pistol, revolver, or other firearm
28 capable of being concealed upon the person to the person referred
29 to in this subparagraph if delivery takes place prior to January 1,
30 2003, unless prior to the delivery of the same the person presents
31 proof to the agency that he or she is the holder of a basic firearms
32 safety certificate or is exempt from obtaining a basic firearms
33 safety certificate pursuant to Section 12081, or, commencing
34 January 1, 2003, is the holder of a handgun safety certificate.

35 (3) Subdivision (d) of Section 12072 shall not apply to a person
36 who takes possession of a firearm by operation of law in a
37 representative capacity who subsequently transfers ownership of
38 the firearm to himself or herself in his or her individual capacity.
39 In the case of a pistol, revolver, or other firearm capable of being
40 concealed upon the person, on and after April 1, 1994, and until

1 January 1, 2003, that individual shall have a basic firearms safety
2 certificate in order for the exemption set forth in this paragraph to
3 apply. Commencing January 1, 2003, the exemption shall not
4 apply, and the individual shall obtain a handgun safety certificate
5 prior to transferring ownership to himself or herself, or taking
6 possession of a handgun in an individual capacity.

7 (j) Subdivision (d) of Section 12072 and subdivision (b) of
8 Section 12801 shall not apply to deliveries, transfers, or returns of
9 firearms made pursuant to Section 12028, 12028.5, or 12030.

10 (k) Section 12071, subdivision (c) of Section 12072, and
11 subdivision (b) of Section 12801 shall not apply to any of the
12 following:

13 (1) The delivery, sale, or transfer of unloaded firearms that are
14 not pistols, revolvers, or other firearms capable of being concealed
15 upon the person by a dealer to another dealer upon proof that the
16 person receiving the firearm is licensed pursuant to Section 12071.

17 (2) The delivery, sale, or transfer of unloaded firearms by
18 dealers to persons who reside outside this state who are licensed
19 pursuant to Chapter 44 (commencing with Section 921) of Title 18
20 of the United States Code and the regulations issued pursuant
21 thereto.

22 (3) The delivery, sale, or transfer of unloaded firearms to a
23 wholesaler if the firearms are being returned to the wholesaler and
24 are intended as merchandise in the wholesaler's business.

25 (4) The delivery, sale, or transfer of unloaded firearms by one
26 dealer to another dealer if the firearms are intended as merchandise
27 in the receiving dealer's business upon proof that the person
28 receiving the firearm is licensed pursuant to Section 12071.

29 (5) The delivery, sale, or transfer of an unloaded firearm that
30 is not a pistol, revolver, or other firearm capable of being
31 concealed upon the person by a dealer to himself or herself.

32 (6) The loan of an unloaded firearm by a dealer who also
33 operates a target facility that holds a business or regulatory license
34 on the premises of the building designated in the license or whose
35 building designated in the license is on the premises of any club or
36 organization organized for the purposes of practicing shooting at
37 targets upon established ranges, whether public or private, to a
38 person at that target facility or that club or organization, if the
39 firearm is at all times kept within the premises of the target range
40 or on the premises of the club or organization.

1 (l) A person who is exempt from subdivision (d) of Section
2 12072 or is otherwise not required by law to report his or her
3 acquisition, ownership, or disposal of a pistol, revolver, or other
4 firearm capable of being concealed upon the person or who moves
5 out of this state with his or her pistol, revolver, or other firearm
6 capable of being concealed upon the person may submit a report
7 of the same to the Department of Justice in a format prescribed by
8 the department.

9 (m) Subdivision (d) of Section 12072 and subdivision (b) of
10 Section 12801 shall not apply to the delivery, sale, or transfer of
11 unloaded firearms to a wholesaler as merchandise in the
12 wholesaler's business by manufacturers or importers licensed to
13 engage in that business pursuant to Chapter 44 (commencing with
14 Section 921) of Title 18 of the United States Code and the
15 regulations issued pursuant thereto, or by another wholesaler, if
16 the delivery, sale, or transfer is made in accordance with Chapter
17 44 (commencing with Section 921) of Title 18 of the United States
18 Code.

19 (n) (1) The waiting period described in Section 12071 or
20 12072 shall not apply to the delivery, sale, or transfer of a pistol,
21 revolver, or other firearm capable of being concealed upon the
22 person by a dealer in either of the following situations:

23 (A) The dealer is delivering the firearm to another dealer and
24 it is not intended as merchandise in the receiving dealer's business.

25 (B) The dealer is delivering the firearm to himself or herself
26 and it is not intended as merchandise in his or her business.

27 (2) In order for this subdivision to apply, both of the following
28 shall occur:

29 (A) If the dealer is receiving the firearm from another dealer,
30 the dealer receiving the firearm shall present proof to the dealer
31 delivering the firearm that he or she is licensed pursuant to Section
32 12071.

33 (B) Whether the dealer is delivering, selling, or transferring the
34 firearm to himself or herself or to another dealer, on the date that
35 the application to purchase is completed, the dealer delivering the
36 firearm shall forward by prepaid mail to the Department of Justice
37 a report of the same and the type of information concerning the
38 purchaser or transferee as is indicated in subdivision (b) of Section
39 12077. Where the electronic or telephonic transfer of applicant
40 information is used, on the date that the application to purchase is

1 completed, the dealer delivering the firearm shall transmit an
2 electronic or telephonic report of the same and the type of
3 information concerning the purchaser or transferee as is indicated
4 in subdivision (b) of Section 12077.

5 (o) Section 12071 and subdivisions (c) and (d) of Section
6 12072 shall not apply to the delivery, sale, or transfer of firearms
7 regulated pursuant to Section 12020, Chapter 2 (commencing with
8 Section 12200), or Chapter 2.3 (commencing with Section
9 12275), if the delivery, sale, or transfer is conducted in accordance
10 with the applicable provisions of Section 12020, Chapter 2
11 (commencing with Section 12200), or Chapter 2.3 (commencing
12 with Section 12275).

13 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of
14 Section 12072 shall not apply to the loan of a firearm that is not
15 a pistol, revolver, or other firearm capable of being concealed upon
16 the person to a minor, with the express permission of the parent or
17 legal guardian of the minor, if the loan does not exceed 30 days in
18 duration and is for a lawful purpose.

19 (2) Paragraph (3) of subdivision (a) of Section 12072,
20 subdivision (d) of Section 12072, and subdivision (b) of Section
21 12801 shall not apply to the loan of a pistol, revolver, or other
22 firearm capable of being concealed upon the person to a minor by
23 a person who is not the parent or legal guardian of the minor if all
24 of the following circumstances exist:

25 (A) The minor has the written consent of his or her parent or
26 legal guardian that is presented at the time of, or prior to the time
27 of, the loan, or is accompanied by his or her parent or legal
28 guardian at the time the loan is made.

29 (B) The minor is being loaned the firearm for the purpose of
30 engaging in a lawful, recreational sport, including, but not limited
31 to, competitive shooting, or agricultural, ranching, or hunting
32 activity, or a motion picture, television, or video production, or
33 entertainment or theatrical event, the nature of which involves the
34 use of a firearm.

35 (C) The duration of the loan does not exceed the amount of time
36 that is reasonably necessary to engage in the lawful, recreational
37 sport, including, but not limited to, competitive shooting, or
38 agricultural, ranching, or hunting activity, or a motion picture,
39 television, or video production, or entertainment or theatrical
40 event, the nature of which involves the use of a firearm.



1 (D) The duration of the loan does not, in any event, exceed 10
2 days.

3 (3) Paragraph (3) of subdivision (a), subdivision (d) of Section
4 12072, and subdivision (b) of Section 12801 shall not apply to the
5 loan of a pistol, revolver, or other firearm capable of being
6 concealed upon the person to a minor by his or her parent or legal
7 guardian if both of the following circumstances exist:

8 (A) The minor is being loaned the firearm for the purposes of
9 engaging in a lawful, recreational sport, including, but not limited
10 to, competitive shooting, or agricultural, ranching, or hunting
11 activity, or a motion picture, television, or video production, or
12 entertainment or theatrical event, the nature of which involves the
13 use of a firearm.

14 (B) The duration of the loan does not exceed the amount of time
15 that is reasonably necessary to engage in the lawful, recreational
16 sport, including, but not limited to, competitive shooting, or
17 agricultural, ranching, or hunting activity, or a motion picture,
18 television, or video production, or entertainment or theatrical
19 event, the nature of which involves the use of a firearm.

20 (4) Paragraph (3) of subdivision (a) of Section 12072 shall not
21 apply to the transfer or loan of a firearm that is not a pistol,
22 revolver, or other firearm capable of being concealed upon the
23 person to a minor by his or her parent or legal guardian.

24 (5) Paragraph (3) of subdivision (a) of Section 12072 shall not
25 apply to the transfer or loan of a firearm that is not a pistol,
26 revolver, or other firearm capable of being concealed upon the
27 person to a minor by his or her grandparent who is not the legal
28 guardian of the minor if the transfer is done with the express
29 permission of the parent or legal guardian of the minor.

30 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
31 Section 12072 shall not apply to the sale of a handgun if both of
32 the following requirements are satisfied:

33 (A) The sale is to a person who is at least 18 years of age.

34 (B) The firearm is an antique firearm as defined in paragraph
35 (16) of subsection (a) of Section 921 of Title 18 of the United
36 States Code.

37 (q) Subdivision (d) of Section 12072 shall not apply to the loan
38 of a firearm that is not a pistol, revolver, or other firearm capable
39 of being concealed upon the person to a licensed hunter for use by

1 that licensed hunter for a period of time not to exceed the duration
2 of the hunting season for which that firearm is to be used.

3 (r) The waiting period described in Section 12071, 12072, or
4 12084 shall not apply to the delivery, sale, or transfer of a firearm
5 to the holder of a special weapons permit issued by the Department
6 of Justice issued pursuant to Section 12095, 12230, 12250, or
7 12305. On the date that the application to purchase is completed,
8 the dealer delivering the firearm or the law enforcement agency
9 processing the transaction pursuant to Section 12084, shall
10 forward by prepaid mail to the Department of Justice a report of
11 the same as described in subdivision (b) or (c) of Section 12077 or
12 Section 12084. If the electronic or telephonic transfer of applicant
13 information is used, on the date that the application to purchase is
14 completed, the dealer delivering the firearm shall transmit to the
15 Department of Justice an electronic or telephonic report of the
16 same as is indicated in subdivision (b) or (c) of Section 12077.

17 (s) Subdivision (d) of Section 12072 and subdivision (b) of
18 Section 12801 shall not apply to the loan of an unloaded firearm
19 or the loan of a firearm loaded with blank cartridges, to a person
20 18 years of age or older, for use solely as a prop for a motion
21 picture, television, or video production or an entertainment or
22 theatrical event.

23 (t) (1) The waiting period described in Sections 12071, 12072,
24 and 12084 shall not apply to the sale, delivery, loan, or transfer of
25 a firearm that is a curio or relic, as defined in Section 178.11 of
26 Title 27 of the Code of Federal Regulations, by a dealer or through
27 a law enforcement agency to a person who is licensed as a collector
28 pursuant to Chapter 44 (commencing with Section 921) of Title 18
29 of the United States Code and the regulations issued pursuant
30 thereto who has a current certificate of eligibility issued to him or
31 her by the Department of Justice pursuant to Section 12071. On the
32 date that the delivery, sale, or transfer is made, the dealer
33 delivering the firearm or the law enforcement agency processing
34 the transaction pursuant to Section 12084, shall forward by
35 prepaid mail to the Department of Justice a report of the
36 transaction pursuant to subdivision (b) of Section 12077 or Section
37 12084. If the electronic or telephonic transfer of applicant
38 information is used, on the date that the application to purchase is
39 completed, the dealer delivering the firearm shall transmit to the
40 Department of Justice an electronic or telephonic report of the

1 transaction as is indicated in subdivision (b) or (c) of Section
2 12077.

3 (2) Subdivision (d) of Section 12072 shall not apply to the
4 infrequent sale, loan, or transfer of a firearm that is not a pistol,
5 revolver, or other firearm capable of being concealed upon the
6 person, which is a curio or relic manufactured at least 50 years
7 prior to the current date, but not including replicas thereof, as
8 defined in Section 178.11 of Title 27 of the Code of Federal
9 Regulations.

10 (u) As used in this section:

11 (1) “Infrequent” has the same meaning as in paragraph (1) of
12 subdivision (c) of Section 12070.

13 (2) “A person taking title or possession of firearms by
14 operation of law” includes, but is not limited to, any of the
15 following instances wherein an individual receives title to, or
16 possession of, firearms:

17 (A) The executor or administrator of an estate if the estate
18 includes firearms.

19 (B) A secured creditor or an agent or employee thereof when
20 the firearms are possessed as collateral for, or as a result of, a
21 default under a security agreement under the Commercial Code.

22 (C) A levying officer, as defined in Section 481.140, 511.060,
23 or 680.260 of the Code of Civil Procedure.

24 (D) A receiver performing his or her functions as a receiver if
25 the receivership estate includes firearms.

26 (E) A trustee in bankruptcy performing his or her duties if the
27 bankruptcy estate includes firearms.

28 (F) An assignee for the benefit of creditors performing his or
29 her functions as an assignee, if the assignment includes firearms.

30 (G) A transmutation of property consisting of firearms
31 pursuant to Section 850 of the Family Code.

32 (H) Firearms passing to a surviving spouse pursuant to Chapter
33 1 (commencing with Section 13500) of Part 2 of Division 8 of the
34 Probate Code.

35 (I) Firearms received by the family of a police officer or deputy
36 sheriff from a local agency pursuant to Section 50081 of the
37 Government Code.

38 (J) The transfer of a firearm by a law enforcement agency to the
39 person who found the firearm where the delivery is to the person

1 as the finder of the firearm pursuant to Article 1 (commencing with
2 Section 2080) of Chapter 4 of Division 3 of the Civil Code.

3 SEC. 178. The heading of Title 10.2 (commencing with
4 Section 14125) of Part 4 of the Penal Code is amended to read:

5
6 TITLE 10.2. ASIAN PACIFIC ISLANDER ANTI-HATE
7 ~~CRIME~~ CRIMES PROGRAM
8

9 SEC. 179. Section 6122 of the Probate Code is amended to
10 read:

11 6122. (a) Unless the will expressly provides otherwise, if
12 after executing a will the testator's marriage is dissolved or
13 annulled, the dissolution or annulment revokes all of the
14 following:

15 (1) Any disposition or appointment of property made by the
16 will to the former spouse.

17 (2) Any provision of the will conferring a general or special
18 power of appointment on the former spouse.

19 (3) Any provision of the will nominating the former spouse as
20 executor, trustee, conservator, or guardian.

21 (b) If any disposition or other provision of a will is revoked
22 solely by this section, it is revived by the testator's remarriage to
23 the former spouse.

24 (c) In case of revocation by dissolution or annulment:

25 (1) Property prevented from passing to a former spouse
26 because of the revocation passes as if the former spouse failed to
27 survive the testator.

28 (2) Other provisions of the will conferring some power or
29 office on the former spouse shall be interpreted as if the former
30 spouse failed to survive the testator.

31 (d) For purposes of this section, dissolution or annulment
32 means any dissolution or annulment which would exclude the
33 spouse as a surviving spouse within the meaning of Section 78. A
34 decree of legal separation which does not terminate the status of
35 husband and wife is not a dissolution for purposes of this section.

36 (e) Except as provided in Section 6122.1, no change of
37 circumstances other than as described in this section revokes a
38 will.

39 (f) Subdivisions (a) to (d), inclusive, do not apply to any case
40 where the final judgment of dissolution or annulment of marriage

1 occurs before January 1, 1985. ~~Such~~ That case is governed by the
2 law in effect prior to January 1, 1985.

3 SEC. 180. Section 615 of the Public Resources Code is
4 amended to read:

5 615. Grants awarded by the department, including, but not
6 limited to, those awarded pursuant to Division 9 (commencing
7 with Section 9000), Division 10.2 (commencing with Section
8 10200), and Division 12.1 (commencing with Section 14500), are
9 not subject to the State Contract Act, ~~Part~~ (Part 2 (commencing
10 with Section 10100) of Division 2 of the Public Contract Code
11 Code) or Article 6 (commencing with Section 999) of Chapter 6
12 of Division 4 of the Military and Veterans Code.

13 SEC. 181. Section 5095.2 of the Public Resources Code is
14 amended to read:

15 5095.2. As used in this chapter, the following terms have the
16 following meanings:

17 (a) “Active recreational purpose” means an activity that
18 requires athletic fields, courts, gymnasiums, or other recreational
19 venues for youth soccer, baseball, football, basketball, tennis, or
20 swimming, or any activity the department identifies as meeting
21 this definition.

22 (b) “Department” means the Department of Parks and
23 Recreation.

24 (c) “Director” means the Director of Parks and Recreation.

25 (d) “Facility” includes a place for organized team sports,
26 outdoor recreation, permanent play structures, and multipurpose
27 structures designed to meet the special recreational, educational,
28 vocational, and social needs of youth. “Facility” also includes the
29 acquisition of properties or development of venues for the
30 furtherance of the purposes of Section 5095.4 where existing state
31 conservancies or state, community or regional parks are not
32 readily accessible.

33 (e) “Fund” means the State Urban Parks and ~~Health~~ Healthy
34 Communities Fund.

35 (f) “Nonurbanized local agency” means any city, county, or
36 district that qualifies as a nonurbanized area as defined in
37 subdivision (e) of Section 5621 and that is eligible for grant
38 funding pursuant to Chapter 3.2 (commencing with Section 5620).

39 (g) “Special district” means a regional park district, regional
40 park and open-space district, or regional open-space district

1 formed pursuant to Article 3 (commencing with Section 5500) of
2 Chapter 3, or a recreation and park district formed pursuant to
3 Chapter 4 (commencing with Section 5780).

4 (h) “State agency” includes the Department of Parks and
5 Recreation and the state conservancies in existence on the effective
6 date of the act adding this section during the 2001 portion of the
7 2001–02 Regular Session.

8 (i) “Urbanized or heavily urbanized local agencies” include
9 cities, counties, or a city and county, or special districts as
10 determined by the Department of Finance according to the latest
11 verifiable census data pursuant to subdivisions (c) and (d) of
12 Section 5621.

13 SEC. 182. The heading of Article 5 (commencing with
14 Section 5096.652) of Chapter 1.696 of Division 2 of the Public
15 Resources Code is amended and renumbered to read:

16
17 Article ~~5~~. 5.5. Historical and Cultural Resources Prevention
18

19 SEC. 183. Section 21158.6 of the Public Resources Code is
20 amended to read:

21 21158.6. (a) For a project in the City of Oakland that consists
22 of multiple-family residential development, or a residential and
23 commercial or retail mixed-use development with not more than
24 25 percent of the total floor area of the project utilized as retail
25 space, a focused environmental impact report may be prepared,
26 notwithstanding that the project was not identified in a master
27 environmental impact report, if all of the following conditions are
28 met:

29 (1) The Oakland City Council does both of the following:

30 (A) Authorizes the implementation of this section. The city
31 council may authorize the implementation of this section only by
32 voting to approve the practice of preparing focused environmental
33 impact reports for projects in the central business district housing
34 target areas specified in paragraph ~~(4)~~ (11).

35 (B) Determines that the general plan, zoning ordinance, and
36 related policies and programs are consistent with principles that
37 encourage compact development in a manner that does both of the
38 following:



1 (i) Promotes efficient transportation systems, economic
2 growth, affordable housing, energy efficiency, and an appropriate
3 balance of jobs and housing.

4 (ii) Protects the environment, open space, and agricultural
5 areas.

6 (2) The city submits a draft determination to the Office of
7 Planning and Research that the applicable general plan, zoning
8 ordinance, and any related policies and programs are consistent
9 with the principles described in subparagraph (B) of paragraph (1)
10 prior to the city council making its determination regarding that
11 consistency. The office may submit comments on the draft
12 findings to the city council within 30 days from the date that the
13 city submits the draft determination to the office.

14 (3) The city has an average population density of at least 5,000
15 persons per square mile.

16 (4) The project is consistent with the general plan, any
17 applicable specific plan and community plan, and zoning
18 ordinance, including any variance that is properly granted
19 pursuant to that zoning ordinance, an environmental impact report
20 was prepared for the general plan, and the application for the
21 project is deemed complete pursuant to Section 65943 of the
22 Government Code within 3 years of the date this section is
23 effective.

24 (5) The lead agency cannot make the finding described in
25 subdivision (c) of Section 21157.1, a negative declaration or
26 mitigated negative declaration cannot be prepared pursuant to
27 Section 21080, 21157.5, or 21158, and Section 21166 does not
28 apply.

29 (6) The project meets one or both of the following conditions:

30 (A) The parcel on which the project is to be developed is
31 surrounded by immediately contiguous urban development.

32 (B) The parcel on which the project is to be developed is, or has
33 been previously, developed with urban uses.

34 (7) The density of the project is at least 40 units per net acre.

35 (8) The parcel on which the project is to be developed is within
36 one-half mile of an existing rail transit station.

37 (9) The project can be adequately served by existing utilities
38 and municipal services, and there will be adequate capacity for
39 infrastructure, utilities, and services to serve other projects
40 approved and proposed in the service area.

1 (10) The project does not include a single level building that
2 exceeds the square footage limitation specified in subdivision (a)
3 of Section 21158.5.

4 (11) The project is located in one of the following central
5 business district housing target areas:

6 (A) The Valdez cluster, which is bounded on the west by
7 Telegraph Avenue, on the south by 23rd Street, on the east by
8 Harrison Street, and on the north by 27th Street. A project located
9 in this cluster that meets the condition described in paragraph (8)
10 may include a portion up to one acre that does not meet that
11 condition.

12 (B) The Uptown cluster, which is bounded on the west by
13 Castro Street, on the south by 14th Street from Castro Street to
14 Jefferson Street and 16th Street from Jefferson Street to Broadway,
15 on the east by Jefferson Street from 14th Street to 16th Street and
16 Broadway from 16th Street to 22nd Street, and on the north by
17 22nd Street.

18 (C) The 11th Street cluster, which is bounded by Franklin
19 Street from 12th Street to 15th Street, by Webster from 11th Street
20 to 12th Street, by Alice Street from 11th Street to 13th Street, by
21 12th Street from Franklin Street to Webster Street, by 11th Street
22 from Webster Street to Alice Street and 13th Street from Alice
23 Street to Madison Street, and on the east by Madison Street from
24 13th Street to 15th Street, and on the north by 15th Street from
25 Franklin Street to Madison Street.

26 (D) The Old Oakland cluster, which is bounded on the west by
27 Castro Street, on the south by 7th Street, on the east by Broadway,
28 and on the north by 11th Street.

29 (b) A focused environmental impact report prepared pursuant
30 to this section shall be limited to a discussion of potentially
31 significant effects on the environment specific to the project. No
32 discussion shall be required of alternatives to the project,
33 cumulative impacts of the project, or the growth inducing impacts
34 of the project.

35 (c) (1) On or before July 1, 2004, the city shall submit a report
36 to the Office of Planning and Research that includes, but that is not
37 necessarily limited to, all of the following information:

38 (A) The number of focused environmental impact reports
39 prepared pursuant to this section.

1 (B) The types of projects for which focused environmental
2 impact reports were prepared pursuant to this section.

3 (C) The time periods for preparing each of the focused
4 environmental impact reports prepared pursuant to this section,
5 and for acting on each project from the date that the application
6 was deemed complete.

7 (D) A description of any alternatives to a project, cumulative
8 impacts of a project, growth inducing impacts of a project, or other
9 issues that may have been identified and analyzed if an
10 environmental document, other than a focused environmental
11 impact report, had been prepared for the project.

12 (2) Prior to submitting the report to the office pursuant to
13 paragraph (1), the city shall hold at least one public hearing and
14 shall respond to oral and written comments regarding the draft
15 report. The city shall include the comments and responses in the
16 final report.

17 (d) This section shall remain in effect only until January 1,
18 2005, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, 2005, deletes or extends that date.

20 SEC. 184. Section 25403.5 of the Public Resources Code is
21 amended to read:

22 25403.5. (a) The commission shall, by July 1, 1978, adopt
23 standards by regulation for a program of electrical load
24 management for each utility service area. In adopting the
25 standards, the commission shall consider, but need not be limited
26 to, the following load management techniques:

27 (1) Adjustments in rate structure to encourage use of electrical
28 energy at off-peak hours or to encourage control of daily electrical
29 load. Compliance with such changes in rate structure shall be
30 subject to the approval of the Public Utilities Commission in a
31 proceeding to change rates or service.

32 (2) End use storage systems which store energy during off-peak
33 periods for use during peak periods.

34 (3) Mechanical and automatic devices and systems for the
35 control of daily and seasonal peakloads.

36 (b) The standards shall be cost-effective when compared with
37 the costs for new electrical capacity, and the commission shall find
38 them to be technologically feasible. Any expense or any capital
39 investment required of a utility by the standards shall be an
40 allowable expense or an allowable item in the utility rate base and

1 shall be treated by the Public Utilities Commission as such in a rate
2 proceeding.

3 The commission may determine that one or more of such
4 techniques are infeasible and may delay their adoption. If the
5 commission determines that any techniques are infeasible to
6 implement, it shall make a finding in each instance stating the
7 grounds upon which the determination was made and the actions
8 it intends to take to remove the impediments to implementation.

9 (c) The commission may also grant, upon application by a
10 utility, an exemption from the standards or a delay in
11 implementation. The grant of an exemption or delay shall be
12 accompanied by a statement of findings by the commission
13 indicating the grounds for the exemption or delay. Exemption or
14 delay shall be granted only upon a showing of extreme hardship,
15 technological infeasibility, lack of cost-effectiveness, or reduced
16 system reliability and efficiency.

17 (d) This section does not apply to proposed sites and related
18 facilities for which a notice of intent or an application requesting
19 certification has been filed with the commission prior to the
20 effective date of the standards.

21 SEC. 185. Section 31007 of the Public Resources Code is
22 amended to read:

23 31007. "Coastal restoration project" means any action taken
24 by a local public agency or the conservancy to correct undesirable
25 development patterns in the coastal zone, ~~including those defined~~
26 ~~in Section 33032 or 33032.1 of the Health and Safety Code.~~

27 SEC. 186. Section 42645 of the Public Resources Code is
28 amended to read:

29 ~~[42645.]~~

30 42645. (a) The board, in consultation with the State
31 Department of Education, the State Board of Education, and the
32 Secretary for Education, *shall establish* a program to provide
33 grants to school districts and schools to assist in the development
34 and implementation of educational programs and to promote the
35 use of existing educational programs; to teach the concepts of
36 source reduction, recycling, and composting.

37 (b) The board, in consultation with the State Department of
38 Education, the Board of Education, and the Secretary for
39 Education, shall adopt criteria for awarding grants pursuant to this
40 article, including, but not limited to, the grant's structure, the

1 schedule for awarding grants, and grant amount limits. This
2 criteria shall include, but not be limited to, a procedure for the
3 geographic distribution of the grants and the appropriate
4 representation of elementary, middle, and high school as grant
5 recipients. In adopting this criteria, the board shall include, in the
6 criteria, the extent to which a an office, a school district, or a school
7 has demonstrated a commitment to achieving the following goals:

8 (1) The adoption of waste reduction and recycling programs
9 and practices.

10 (2) The adoption and implementation of the unified education
11 strategy adopted pursuant to Section 42603.

12 (3) The allocation of adequate space for the safe collection,
13 storage, and loading of recyclable materials.

14 (4) To the maximum extent feasible, the use of recycled
15 materials and environmentally preferable products in the
16 construction or modernization of public school facilities.

17 (5) Participation in the environmental ambassador pilot
18 program established pursuant to Section 51226.4 of the Education
19 Code.

20 (c) Notwithstanding Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
22 the adoption of criteria for the awarding of grants pursuant to this
23 article is not the adoption of a regulation, and is exempt from the
24 requirements of that chapter.

25 SEC. 187. Section 71040 of the Public Resources Code is
26 amended to read:

27 71040. (a) The Secretary for Environmental Protection shall
28 establish permit assistance centers throughout the state to provide
29 businesses and other entities with assistance in complying with
30 laws and regulations implemented by every board, department,
31 and office within the California Environmental Protection
32 Agency. Each permit assistance center shall, to the extent feasible,
33 incorporate permit assistance activities of local and federal entities
34 and of other entities of the state into its operations.

35 (b) In addition to the centers authorized pursuant to subdivision
36 (a), the secretary shall establish an electronic online permit
37 assistance center through the Internet. The electronic online
38 permit assistance center shall be available for use by any business
39 or other entity subject to a law or regulation implemented by a
40 board, department, or office within the California Environmental

1 Protection Agency, and shall provide a business or other entity
2 with assistance in complying with those laws and regulations. The
3 center, which shall be called the “California Government-On Line
4 to Desktops” or “CALGOLD” program, shall provide special
5 software, “hotlinks” and other online resources and tools that may
6 be used by a business or other entity to streamline and expedite
7 compliance with laws and regulations implemented by a board,
8 department, or office within the California Environmental
9 Protection Agency. The CALGOLD program shall, to the extent
10 feasible, incorporate permit assistance activities of local and
11 federal entities and of other entities of the state into its operations.

12 (c) The Secretary for Environmental Protection shall report
13 annually, no later than December 1 with respect to the previous
14 fiscal year, to the Governor and the Legislature on the number of
15 permits issued, expedited, or otherwise streamlined by each
16 center; the number and types of businesses assisted by each center;
17 and how the assistance provided to businesses has improved
18 environmental protection. The secretary, in consultation with the
19 Secretary of ~~the~~ Technology, Trade and Commerce ~~Agency~~, shall
20 report on the permit assistance activities of both agencies and shall
21 make recommendations to ensure that these activities are
22 coordinated and nonduplicative.

23 SEC. 188. Section 331 of the Public Utilities Code is amended
24 to read:

25 331. The definitions set forth in this section shall govern the
26 construction of this chapter.

27 (a) “Aggregator” means any marketer, broker, public agency,
28 city, county, or special district, that combines the loads of multiple
29 end-use customers in facilitating the sale and purchase of electric
30 energy, transmission, and other services on behalf of these
31 customers.

32 (b) “Broker” means an entity that arranges the sale and
33 purchase of electric energy, transmission, and other services
34 between buyers and sellers, but does not take title to any of the
35 power sold.

36 (c) “Direct transaction” means a contract between any one or
37 more electric generators, marketers, or brokers of electric power
38 and one or more retail customers providing for the purchase and
39 sale of electric power or any ancillary services.



1 (d) “Fire wall” means the line of demarcation separating
2 residential and small commercial customers from all other
3 customers as described in subdivision (e) of Section 367.

4 (e) “Marketer” means any entity that buys electric energy,
5 transmission, and other services from traditional utilities and other
6 suppliers, and then resells those services at wholesale or to an
7 end-use customer.

8 (f) “Microcogeneration facility” means a cogeneration facility
9 of less than one megawatt.

10 (g) “Restructuring trusts” means the two tax-exempt public
11 benefit trusts established by Decision ~~D~~: 96-08-038 of the Public
12 Utilities Commission to provide for design and development of the
13 hardware and software systems for the Power Exchange and the
14 Independent System Operator, respectively, and that may
15 undertake other activities, as needed, as ordered by the
16 commission.

17 (h) “Small commercial customer” means a customer that has
18 a maximum peak demand of less than 20 kilowatts.

19 SEC. 189. Section 332.1 of the Public Utilities Code is
20 amended to read:

21 332.1. (a) (1) It is the intent of the Legislature to enact Item
22 1 (revised) on the commission’s August 21, 2000 agenda, entitled
23 “Opinion Modifying Decision (D.) D.00-06-034 and
24 D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas
25 and Electric Company,” as modified below.

26 (2) It is also the intent of the Legislature that to the extent that
27 the Federal Energy Regulatory Commission orders refunds to
28 electrical corporations pursuant to their findings, the commission
29 shall ensure that any refunds are returned to customers.

30 (b) The commission shall establish a ceiling of six and
31 five-tenths cents (\$0.065) per kilowatthour on the energy
32 component of electric bills for electricity supplied to residential,
33 small commercial, and street lighting customers by the San Diego
34 Gas and Electric Company, through December 31, 2002,
35 retroactive to June 1, 2000. If the commission finds it in the public
36 interest, this ceiling may be extended through December 2003 and
37 may be adjusted as provided in subdivision (d).

38 (c) The commission shall establish an accounting procedure to
39 track and recover reasonable and prudent costs of providing
40 electric energy to retail customers unrecovered through retail bills

1 due to the application of the ceiling provided for in subdivision (b).
2 The accounting procedure shall utilize revenues associated with
3 sales of energy from utility-owned or managed generation assets
4 to offset an undercollection, if undercollection occurs. The
5 accounting procedure shall be reviewed periodically by the
6 commission, but not less frequently than semiannually. The
7 commission may utilize an existing proceeding to perform the
8 review. The accounting procedure and review shall provide a
9 reasonable opportunity for San Diego Gas and Electric Company
10 to recover its reasonable and prudent costs of service over a
11 reasonable period of time.

12 (d) If the commission determines that it is in the public interest
13 to do so, the commission, after the date of the completion of the
14 proceeding described in subdivision (g), may adjust the ceiling
15 from the level specified in subdivision (b), and may adjust the
16 frozen rate from the levels specified in subdivision (f), consistent
17 with the Legislature's intent to provide substantial protections for
18 customers of the San Diego Gas and Electric Company and their
19 interest in just and reasonable rates and adequate service.

20 (e) For purposes of this section, "small commercial customer"
21 includes, but is not limited to, all San Diego Gas and Electric
22 Company accounts on Rate Schedule A of the San Diego Gas and
23 Electric Company, all accounts of customers who are "general
24 acute care hospitals," as defined in Section 1250 of the Health and
25 Safety Code, all San Diego Gas and Electric Company accounts
26 of customers who are public or private schools for pupils in
27 kindergarten or any of grades 1 to 12, inclusive, and all accounts
28 on Rate Schedule AL-TOU under 100 kilowatts.

29 (f) The commission shall establish an initial frozen rate of six
30 and five-tenths cents (\$0.065) per kilowatthour on the energy
31 component of electric bills for electricity supplied to all customers
32 by the San Diego Gas and Electric Company not subject to
33 subdivision (b), for the time period ending with the end of the rate
34 freeze for the Pacific Gas and Electric Company and the Southern
35 California Edison Company pursuant to Section 368, retroactive
36 to February 7, 2001. The commission shall consider the
37 comparable energy components of rates for comparable customer
38 classes served by the Pacific Gas and Electric Company and the
39 Southern California Edison Company and, if it determines it to be
40 in the public interest, the commission may adjust this frozen rate,



1 and may do so, retroactive to the date that rate increases took effect
2 for customers of Pacific Gas and Electric Company and Southern
3 California Edison Company pursuant to the commission's March
4 27, 2001, decision. The commission shall determine the Fixed
5 Department of Water Resources Set-Aside pursuant to Section
6 360.5 for customers subject to this section, reflecting a retail rate
7 consistent with the rate for the energy component of electric bills
8 as determined in this subdivision, in place of the retail rate in effect
9 on January 5, 2001. This section shall be construed to modify the
10 payment provisions, but may not be construed to modify the
11 electric procurement obligations of the Department of Water
12 Resources, pursuant to any contract or agreement in accordance
13 with Division 27 (commencing with Section 80000) of the Water
14 Code, and in effect as of February 7, 2001, between the
15 Department of Water Resources and San Diego Gas and Electric
16 Company.

17 (g) The commission shall institute a proceeding to examine the
18 prudence and reasonableness of the San Diego Gas and Electric
19 Company in the procurement of wholesale energy on behalf of its
20 customers, for a period beginning at the latest on June 1, 2000. If
21 the commission finds that San Diego Gas and Electric Company
22 acted imprudently or unreasonably, the commission shall issue
23 orders that it determines to be appropriate affecting the retail rates
24 of San Diego Gas and Electric Company customers including, but
25 not limited to, refunds.

26 (h) Nothing in this section ~~shall~~ may be construed to limit the
27 authority of the Department of Water Resources pursuant to
28 Division 27 (commencing with Section 80000) of the Water Code.

29 SEC. 190. Section 332.2 of the Public Utilities Code, as added
30 by Section 2 of Chapter 5 of the 2001–02 First Extraordinary
31 Session, is amended to read:

32 332.2. Rates set by the commission that are subject to
33 subdivision (f) of Section 332.1 ~~shall~~ may not result in any
34 retroactive recovery of undercollections by the San Diego Gas and
35 Electric Company. Any undercollection resulting from the
36 retroactive rate reductions ordered pursuant to this chapter,
37 retroactive to February 7, 2001, ~~shall~~ may not result in a revenue
38 undercollection to San Diego Gas and Electric Company.



1 SEC. 191. Section 332.2 of the Public Utilities Code, as added
2 by Section 2 of Chapter 6 of the 2001–02 First Extraordinary
3 Session, is amended to read:

4 332.2. Rates set by the commission that are subject to
5 subdivision (f) of Section 332.1 ~~shall~~ *may* not result in any
6 retroactive recovery of undercollections by the San Diego Gas and
7 Electric Company. Any undercollection resulting from the
8 retroactive rate reductions ordered pursuant to this chapter,
9 retroactive to February 7, 2001, ~~shall~~ *may* not result in a revenue
10 undercollection to San Diego Gas and Electric Company.

11 SEC. 192. Section 399.6 of the Public Utilities Code, as
12 amended by Section 1 of Chapter 774 of the Statutes of 2001, is
13 amended to read:

14 399.6. (a) In order to optimize public investment and ensure
15 that the most cost-effective and efficient investments in renewable
16 resources are vigorously pursued, the Energy Commission shall
17 create an investment plan as set forth in paragraphs (1) to (3),
18 inclusive, to govern the allocation of funds provided pursuant to
19 this article. The Energy Commission's long-term goal shall be a
20 fully competitive and self-sustaining California renewable energy
21 supply. The investment plan shall be in accordance with all of the
22 following:

23 (1) The investment plan's objective shall be to increase, in the
24 near term, the quantity of California's electricity generated by
25 in-state renewable energy resources, while protecting system
26 reliability, fostering resource diversity, and obtaining the greatest
27 environmental benefits for California residents.

28 (2) An additional objective of the plan shall be to identify and
29 support emerging renewable energy technologies that have the
30 greatest near-term commercial promise and that merit targeted
31 assistance.

32 (3) The investment plan shall contain specific numerical
33 targets, reflecting the projected impact of the plan, for both of the
34 following:

35 (A) Increased quantity of California electrical generation
36 produced from emerging technologies and from overall renewable
37 resources.

38 (B) Increased supply of renewable generation available from
39 facilities other than those selling to investor-owned utilities under



1 contracts entered into prior to 1996 under the federal Public
2 Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

3 (b) The Energy Commission shall, on an annual basis, evaluate
4 progress on meeting the targets set forth in subparagraphs (A) and
5 (B) of paragraph (3) of subdivision (a), or any substitute provisions
6 adopted by the Legislature upon review of the investment plan,
7 and assess the impact of the investment plan on reducing the cost
8 to Californians of renewable energy generation.

9 (c) In preparing these investment plans, the Energy
10 Commission shall recommend allocations among all of the
11 following:

12 (1) (A) Except as provided in subparagraph (B), production
13 incentives for new renewable energy, including repowered or
14 refurbished renewable energy.

15 (B) Allocations may not be made for renewable energy that is
16 generated by a project that remains under a power purchase
17 contract with an electrical corporation originally entered into prior
18 to September 24, 1996, whether amended or restated thereafter.

19 (C) Notwithstanding subparagraph (B), production incentives
20 for incremental new, repowered, or refurbished renewable energy
21 from existing projects under a power purchase contract with an
22 electrical corporation originally entered into prior to September
23 24, 1996, whether amended or restated thereafter, may be allowed
24 in any month, if all of the following occur:

25 (i) The project's power purchase contract provides that all
26 energy delivered and sold under the contract is paid at a price that
27 does not exceed ~~commission-approved~~ *commission-approved*
28 short-run avoided cost of energy.

29 (ii) Either of the following:

30 (I) The power purchase contract is amended to provide that the
31 kilowatthours used to determine the capacity payment in any
32 time-of-delivery period in any month under the contract shall be
33 equal to the actual kilowatthour production, but no greater than the
34 five-year average of the kilowatthours delivered for the
35 corresponding time-of-delivery period and month, in the years
36 1994 to 1998, inclusive.

37 (II) If a project's installed capacity as of December 31, 1998,
38 is less than 75 percent of the nameplate capacity as stated in the
39 power purchase contract, the power purchase contract is amended
40 to provide that the kilowatthours used to determine the capacity

1 payment in any time-of-delivery period in any month under the
2 contract shall be equal to the actual kilowatthour production, but
3 no greater than the product of the five-year average of the
4 kilowatthours delivered for the corresponding time-of-delivery
5 period and month, in the years 1994 to 1998, inclusive, and the
6 ratio of installed capacity as of December 31 of the previous year,
7 but not to exceed contract nameplate capacity, to the installed
8 capacity as of December 31, 1998.

9 (iii) The production incentive is payable only with respect to
10 the kilowatthours delivered in a particular month that exceeds the
11 corresponding five-year average calculated pursuant to clause (ii).

12 (2) Rebates, buydowns, or equivalent incentives for emerging
13 renewable technologies.

14 (3) Customer credits for renewables not under contract with a
15 utility.

16 (4) Customer education.

17 (5) Incentives for reducing fuel costs that are confirmed to the
18 satisfaction of the Energy Commission at solid fuel biomass
19 energy facilities in order to provide demonstrable environmental
20 and public benefits, including, but not limited to, air quality.

21 (6) Solar thermal generating resources that enhance the
22 environmental value or reliability of the electrical system and that
23 require financial assistance to remain economically viable, as
24 determined by the Energy Commission. The Energy Commission
25 may require financial disclosure from applicants for purposes of
26 this paragraph.

27 (7) Specified fuel cell technologies, if the Energy Commission
28 makes all of the following findings:

29 (A) The specified technologies have similar or better air
30 pollutant characteristics than renewable technologies in the
31 investment plan.

32 (B) The specified technologies require financial assistance to
33 become commercially viable by reference to wholesale generation
34 prices.

35 (C) The specified technologies could contribute significantly
36 to the infrastructure development or other innovation required to
37 meet the long-term objective of a self-sustaining, competitive
38 supply of renewable energy.

39 (8) Existing wind-generating resources, if the Energy
40 Commission finds that the existing wind-generating resources are

1 a cost-effective source of reliable and environmental benefits
2 compared with other eligible sources, and that the existing
3 wind-generating resources require financial assistance to remain
4 economically viable, as determined by the Energy Commission.
5 The Energy Commission may require financial disclosure from
6 applicants for the purposes of this paragraph.

7 (d) The commission shall establish a cap on the aggregate
8 amount of funds ~~which~~ *that* may be awarded to public entities from
9 the program ~~which~~ *that* provides customer credits for renewables.
10 The intent of the cap is to assure adequate funding of credits for
11 residential and small commercial customers.

12 (e) Notwithstanding any other provision of law, moneys
13 collected for renewable energy pursuant to this article shall be
14 transferred to the Renewable Resource Trust Fund of the Energy
15 Commission, to be held until further action by the Legislature. The
16 Energy Commission shall prepare and submit to the Legislature,
17 on or before March 31, 2001, an initial investment plan for these
18 moneys, addressing the application of moneys collected between
19 January 1, 2002, and January 1, 2007. The initial investment plan
20 shall also include an evaluation of and report to the Legislature
21 regarding the appropriateness and structure of a mandatory state
22 purchase of renewable energy. On or before March 31, 2006, the
23 Energy Commission shall prepare an investment plan proposing
24 the application of moneys collected between January 1, 2007, and
25 January 1, 2012. No moneys may be expended in the years covered
26 by these plans without further legislative action.

27 SEC. 193. Section 2774.5 of the Public Utilities Code is
28 amended to read:

29 2774.5. An electrical corporation or local publicly owned
30 electric utility, as defined in subdivision (d) of Section 9604, shall
31 immediately notify the Commissioner of the California Highway
32 Patrol, the Office of Emergency Services, and the sheriff and any
33 affected chief of police of the specific area within their respective
34 law enforcement jurisdictions that will sustain a planned loss of
35 power as soon as the planned loss becomes known as to when and
36 where that power loss will occur. The notification shall include
37 common geographical boundaries, grid or block numbers of the
38 ~~effected~~ *affected* area, and the next anticipated power loss area
39 designated by the electrical corporation or public entity during
40 rotating blackouts.

1 SEC. 194. Section 3350 of the Public Utilities Code is
2 amended to read:

3 3350. In evaluating the ~~the~~ eligibility for financing of
4 additional generation facilities, the authority shall utilize the
5 Energy Commission's and the Independent System Operator's, or
6 their successor's, information relating to the need for additional
7 generating facilities and their forecasts of electric supply and
8 demand for the state.

9 SEC. 195. Section 170016 of the Public Utilities Code is
10 amended to read:

11 170016. (a) The permanent board shall be established
12 pursuant to this section. The board shall consist of nine members,
13 with three members serving in an executive committee.

14 (b) The following three members shall comprise the executive
15 committee:

16 (1) A member of the public who shall be appointed by the
17 Board of Supervisors of the County of San Diego and shall be a
18 resident of an unincorporated area of the county. The initial term
19 for this member shall be two years.

20 (2) A member of the public who shall be appointed by the
21 Governor and confirmed by the Senate, shall reside in the County
22 of San Diego, but not within the City of San Diego. The initial term
23 for this member, upon confirmation of the Senate, shall be six
24 years.

25 (3) A member the public who shall be appointed by the Mayor
26 of the City of San Diego and shall be confirmed by a majority vote
27 of the San Diego City Council. The initial term for this member
28 shall be four years.

29 (c) The remaining six members of the board shall be as follows:

30 (1) The Mayor of the City of San Diego, or a member of the city
31 council designated by the mayor to be his or her alternate.

32 (2) A member *of* the public appointed by the Mayor of the City
33 of San Diego. The initial term for this member shall be two years.

34 (3) The mayor of the most populous city, as of the most recent
35 decennial census, among the north area cities. If that mayor
36 declines to serve, he or she shall appoint a member of the public
37 who is a resident of one of *the* north area cities. The initial term for
38 this member shall be two years.

39 (4) (A) If the member serving under paragraph (3) is a mayor,
40 then a member of the public selected by the mayors of the north

1 area cities from one of those cities, excluding the most populous
2 city.

3 (B) If the person serving under paragraph (3) is not a mayor,
4 then the mayors of the north area cities shall select a mayor or
5 council member of a north area city, excluding the most populous
6 city, to serve as the member.

7 (C) The initial term for this member shall be four years.

8 (5) The mayor of the most populous city, as of the most recent
9 decennial census, among the south area cities. If that mayor
10 declines to serve, he or she shall appoint a member of the public
11 who is a resident of one of south area cities. The initial term for this
12 member shall be six years.

13 (6) (A) If the member serving under paragraph (5) is a mayor,
14 then a member of the public selected by the mayors of the south
15 area cities from one of those cities, excluding the most populous
16 city.

17 (B) If the person serving under paragraph (5) is not a mayor,
18 then the mayors of the south area cities shall select a mayor or
19 council member of a south area city, excluding the most populous
20 city, to serve as the member.

21 (C) The initial term for this member shall be four years.

22 (d) The initial chair shall be the person appointed to the board
23 pursuant to paragraph (2) of subdivision (b). Thereafter, the
24 executive committee shall appoint the chair, who shall serve for a
25 two-year portion of his or her term as a board member, upon
26 confirmation of the full board. A chair may be appointed to
27 consecutive terms, subject to confirmation of the full board.

28 (e) (1) Members appointed to the first board shall be appointed
29 on or before October 31, 2002, and shall be seated as the board on
30 December 2, 2002.

31 (2) Any appointment not filled by the respective appointing
32 authority on or before December 1, 2002, shall be filled by
33 appointment by the Governor, consistent with the eligibility
34 requirements of this section for that membership position.

35 (f) (1) After the initial term, all terms shall be 4 *four* years,
36 except as otherwise required under ~~Subdivision~~ *subdivision* (b) of
37 Section 170018.

38 (2) The expiration date of the term of office shall be the first
39 Monday in December in the year in which the term is to expire.

1 SEC. 196. Section 170018 of the Public Utilities Code is
2 amended to read:

3 170018. (a) The appointing authority for a member whose
4 term has expired shall appoint that member's successor for a full
5 term of four years.

6 (b) The membership of any member serving on the board as a
7 result of holding another public office shall terminate when the
8 member ceases holding the other public office.

9 (c) Any vacancy in the membership of the board shall be filled
10 for the expired term by a person selected by *the* appointing
11 authority for that position.

12 SEC. 197. Section 62.1 of the Revenue and Taxation Code is
13 amended to read:

14 62.1. (a) Change in ownership shall not include the
15 following:

16 (1) Any transfer, on or after January 1, 1985, of a mobilehome
17 park to a nonprofit corporation, stock cooperative corporation,
18 limited equity stock cooperative, or other entity formed by the
19 tenants of a mobilehome park, for the purpose of purchasing the
20 mobilehome park, provided that, with respect to any transfer of a
21 mobilehome park on or after January 1, 1989, subject to this
22 paragraph, the individual tenants who were renting at least 51
23 percent of the spaces in the mobilehome park prior to the transfer
24 participate in the transaction through the ownership of an
25 aggregate of at least 51 percent of the voting stock of, or other
26 ownership or membership interests in, the entity which acquires
27 the park. If, on or after January 1, 1998, a park is acquired by an
28 entity that did not attain an initial tenant participation level of at
29 least 51 percent on the date of the transfer, the entity shall have up
30 to one year after the date of the transfer to attain a tenant
31 participation level of at least 51 percent. If an individual tenant
32 notifies the county assessor of the intention to comply with the
33 conditions set forth in the preceding sentence, the mobilehome
34 park may not be reappraised by the assessor during that period.
35 However, if a tenant participation level of at least 51 percent is not
36 attained within the one-year period, the county assessor shall
37 thereafter levy escape assessments for the mobilehome park
38 transfer.

39 (2) Any transfer or transfers on or after January 1, 1985, of
40 rental spaces in a mobilehome park to the individual tenants of the

1 rental spaces, provided that (1) at least 51 percent of the rental
 2 spaces are purchased by individual tenants renting their spaces
 3 prior to purchase, and (2) the individual tenants of these spaces
 4 form, within one year after the first purchase of a rental space by
 5 an individual tenant, a resident organization as described in
 6 subdivision (l) of Section 50781 of the Health and Safety Code, to
 7 operate and maintain the park. If, on or after January 1, 1985, an
 8 individual tenant or tenants notify the county assessor of the
 9 intention to comply with the conditions set forth in the preceding
 10 sentence, any mobilehome park rental space that is purchased by
 11 an individual tenant in that mobilehome park during that period
 12 shall not be reappraised by the assessor. However, if all of the
 13 conditions set forth in the first sentence of this paragraph are not
 14 satisfied, the county assessor shall thereafter levy escape
 15 assessments for the spaces so transferred. This paragraph shall
 16 apply only to those rental mobilehome parks that have been in
 17 operation for five years or more.

18 (b) (1) If the transfer of a mobilehome park has been excluded
 19 from a change in ownership pursuant to paragraph (1) of
 20 subdivision (a) and the park has not been converted to
 21 condominium, stock cooperative ownership, or limited equity
 22 cooperative ownership, any transfer on or after January 1, 1989,
 23 of shares of the voting stock of, or other ownership or membership
 24 interests in, the entity that acquired the park in accordance with
 25 paragraph (1) of subdivision (a) shall be a change in ownership of
 26 a pro rata portion of the real property of the park unless the transfer
 27 is for the purpose of converting the park to condominium, stock
 28 cooperative ownership, or limited equity cooperative ownership
 29 or is excluded from change in ownership by Section 62, 63, or
 30 63.1.

31 (2) For the purposes of this subdivision, “pro rata portion of the
 32 real property” means the total real property of the mobilehome
 33 park multiplied by a fraction consisting of the number of shares of
 34 voting stock, or other ownership or membership interests,
 35 transferred divided by the total number of outstanding issued or
 36 unissued shares of voting stock of, or other ownership or
 37 membership interests in, the entity that acquired the park in
 38 accordance with paragraph (1) of subdivision (a).

1 (3) Any pro rata portion or portions of real property that
2 changed ownership pursuant to this subdivision may be separately
3 assessed as provided in Section 2188.10.

4 (4) (A) Notwithstanding any other provision of law, after an
5 exclusion under subdivision (a), the assessor may not levy any
6 escape or supplemental assessment with respect to any change in
7 ownership of a pro rata portion of the real property of the
8 mobilehome park that occurred between January 1, 1989, and
9 January 1, 2002, and for which the assessor did not, prior to
10 January 1, 2000, levy any assessments. However, commencing
11 with the January 1, 2002, lien date, the assessor shall correct the
12 base year value of the pro rata portion of the real property of the
13 park to properly reflect these changes in ownership. A
14 mobilehome park shall provide information requested by the
15 assessor that is necessary to correct the base year value of the
16 property for purposes of this paragraph.

17 (B) When an assessor corrects the base year value of the real
18 property of the park pursuant to subparagraph (A), the assessor
19 shall notify parks that residents may be eligible for property tax
20 assistance programs offered by either the Controller or the
21 Franchise Tax Board for senior citizens, or blind or disabled
22 persons.

23 (C) Any outstanding taxes that were levied between January 1,
24 2000, and January 1, 2002, as a result of a pro rata change in
25 ownership as described in ~~subparagraph~~ *subparagraph* (A) shall be
26 canceled. However, there shall be no refund of taxes, as so levied,
27 that were paid prior to January 1, 2002.

28 (5) A mobilehome park that does not utilize recorded deeds to
29 transfer ownership interest in the spaces or lots shall file, by
30 February 1 of each year, a report with the county assessor's office
31 containing all of the following information:

32 (A) The full name and mailing address of each owner,
33 stockholder, or holder of an ownership interest in the mobilehome
34 park.

35 (B) The situs address, including space number, of each unit.

36 (C) The date that the ownership interest was acquired.

37 (D) If the unit is a manufactured home, the Department of
38 Housing and Community Development decal number or serial
39 number, or both, and whether the manufactured home is subject to
40 the vehicle license fee or the local property tax.

1 (6) Within 30 days of a change in ownership, the new resident
2 owner or other purchaser or transferee of a mobilehome within a
3 mobilehome park that does not utilize recorded deeds to transfer
4 ownership interest in the spaces or lots shall file a change in
5 ownership statement described in either Section 480 or 480.2.

6 (7) Failure to comply with the reporting requirement described
7 in paragraph (5) shall result in a penalty pursuant to Section 482.

8 (c) It is the intent of the Legislature that, in order to facilitate
9 affordable conversions of mobilehome parks to tenant ownership,
10 paragraph (1) of subdivision (a) apply to all bona fide transfers of
11 rental mobilehome parks to tenant ownership, including, but not
12 limited to, those parks converted to tenant ownership as a
13 nonprofit corporation made on or after January 1, 1985.

14 SEC. 198. Section 756 of the Revenue and Taxation Code is
15 amended to read:

16 756. (a) On or before July 31, the board shall transmit to each
17 county auditor a roll showing the unitary and operating nonunitary
18 assessments made by the board in the county and the nonoperating
19 nonunitary assessments made by the board in each city and
20 revenue district in the county; provided, however, that the roll need
21 not show the assessments made by the board in a revenue district
22 which did not levy a tax or assessment during the preceding year.
23 ~~Such~~ The roll is at all times, during office hours, open to the
24 inspection of any person representing any taxing agency or
25 revenue district, or any district described in Section 2131. If the
26 roll does not show the assessments in a revenue district as herein
27 provided and a notice of a proposed levy is furnished the board in
28 writing, on or before January 1 preceding the fiscal year for which
29 the levy is to be made, the board shall furnish an estimate of the
30 total assessed value of nonoperating nonunitary state-assessed
31 property in the district and shall transmit thereafter to the county
32 auditor a statement of roll change showing the nonoperating
33 nonunitary assessments made by the board in the district.

34 (b) Notwithstanding subdivision (a), in making the roll
35 referred to in subdivision (a), the unitary value and nonunitary
36 value of the property of regulated railway companies and property
37 subject to subdivision (i) of Section 98.9 shall be enrolled by
38 revenue district.

39 SEC. 199. Section 11273 of the Revenue and Taxation Code
40 is amended to read:

1 11273. If any person required to file a report fails to file it on
2 or before April 30 or ~~such~~ *at the* time as extended by the board, a
3 penalty of 10 percent of the assessed value shall be added to the
4 assessment.

5 If the assessee establishes to the satisfaction of the board that the
6 failure to file the property statement timely was due to a reasonable
7 cause and occurred notwithstanding the exercise of ordinary care
8 and the absence of willful neglect, the board shall order the penalty
9 abated, provided the assessee has filed with the board written
10 application for abatement of the penalty within the time prescribed
11 by law for filing a petition for reassessment.

12 SEC. 200. Section 12209 of the Revenue and Taxation Code
13 is amended to read:

14 12209. (a) For each year beginning on or after January 1,
15 1999, and before January 1, 2007, there shall be allowed as a credit
16 against the amount of tax, as defined in Section 28 of Article XIII
17 of the California Constitution, an amount equal to 20 percent of the
18 amount of each qualified investment made by a taxpayer during
19 the year into a community development financial institution.

20 (b) For purposes of determining any tax that may be imposed
21 under Section 685 of the Insurance Code on a taxpayer not
22 organized under the laws of this state, the amount of the credit
23 allowed by subdivision (a) shall be treated as a tax paid under
24 Section 12201 or Section 28 of Article XIII of the California
25 Constitution.

26 (c) Notwithstanding any other provision of this part, no credit
27 shall be allowed under this section unless the California Organized
28 Investment Network, or its successor within the Department of
29 Insurance, certifies that the investment described in subdivision
30 (a) qualifies for the credit under this section and certifies the total
31 amount of the credit allocated to the taxpayer pursuant to this
32 section. The aggregate amount of qualified investments made by
33 all taxpayers pursuant to this section, Section 17053.57, and
34 Section 23657 shall not exceed ten million dollars (\$10,000,000)
35 for each calendar year. However, if the aggregate amount of
36 qualified investments made in any calendar year is less than ten
37 million dollars (\$10,000,000), the difference may be carried over
38 to the next year, and any succeeding year during which this section
39 remains in effect, and added to the aggregate amount authorized
40 for those years.

1 (d) The community development financial institution shall do
2 all of the following:

3 (1) Apply to the Department of Insurance, California
4 Organized Investment Network, or its successor, for certification
5 of its status as a community development financial institution.

6 (2) Apply to the Department of Insurance, California
7 Organized Investment Network, or its successor, on behalf of the
8 taxpayer for certification of the amount of the investment and the
9 credit amount allocated to the taxpayer, obtain the certification,
10 and retain a copy of the certification.

11 (3) Obtain the taxpayer's California company identification
12 number for tax administration purposes and provide this
13 information to the Department of Insurance, California Organized
14 Investment Network, or its successor, with the application
15 required in paragraph (2).

16 (4) Provide an annual listing to the State Board of Equalization,
17 in the form and manner agreed upon by the State Board of
18 Equalization and the Department of Insurance, California
19 Organized Investment Network, or its successor, of the names and
20 taxpayer's California company identification numbers of any
21 taxpayer who makes any withdrawal or partial withdrawal of a
22 qualified investment before the expiration of 60 months from the
23 date of the qualified investment.

24 (e) The Department of Insurance, California Organized
25 Investment Network, or any successor thereof, shall do all of the
26 following:

27 (1) Accept applications for certification from financial
28 institutions and issue certificates that the applicant is a community
29 development financial institution qualified to receive qualified
30 investments.

31 (2) Accept applications for certification from any community
32 development financial institution on behalf of the taxpayer and
33 issue certificates to taxpayers in an aggregate amount that shall not
34 exceed the limit specified in subdivision (c). The certificate shall
35 include the amount eligible to be made as an investment that
36 qualifies for the credit and the total amount of the credit to which
37 the taxpayer is entitled for the year. Certificates shall be issued in
38 the order that the applications are received.

39 (3) Provide an annual listing to the State Board of Equalization,
40 in the form or manner agreed upon by the State Board of

1 Equalization and the Department of Insurance, California
2 Organized Investment Network, or its successor, of the taxpayers
3 who were issued certificates, their respective National Association
4 of Insurance Commissioners company number and employer's tax
5 identification number, the amount of the qualified investment
6 made by each taxpayer, and the total amount of qualified
7 investments.

8 (f) For purposes of this section:

9 (1) "Qualified investment" means a deposit or loan that does
10 not earn interest, or an equity investment, or an equity-like debt
11 instrument that conforms to the specifications for these
12 instruments as prescribed by the United States Department of the
13 Treasury, Community Development Financial Institutions Fund,
14 or its successor. All qualified investments must be equal to or
15 greater than fifty thousand dollars (\$50,000) and made for a
16 minimum duration of 60 months.

17 (2) "Community development financial institution" means a
18 private financial institution located in this state that is certified by
19 the Department of Insurance, California Organized Investment
20 Network, or its successor, that has community development as its
21 primary mission, and that lends in urban, rural, or
22 reservation-based communities in this state. A community
23 development financial institution may include a community
24 development bank, a community development loan fund, a
25 community development credit union, a microenterprise fund, a
26 community development corporation-based lender, and a
27 community development venture fund.

28 (g) (1) If a qualified investment is withdrawn before the end
29 of the 60th month and not reinvested in another community
30 development financial institution within 60 days, there shall be
31 added to the "tax," as defined in Section 28 of Article XIII of the
32 California Constitution, for the year in which the withdrawal
33 occurs, the entire amount of any credit previously allowed under
34 this section.

35 (2) If a qualified investment is reduced before the end of the
36 60th month, but not below fifty thousand dollars (\$50,000), there
37 shall be added to the "tax," as defined in Section 28 of Article XIII
38 of the California Constitution, for the taxable year in which the
39 reduction occurs, an amount equal to 20 percent of the total
40 reduction for the year.

1 (h) In the case where the credit allowed by this section exceeds
2 the “tax,” the excess may be carried over to reduce the “tax” for
3 the next four years, or until the credit has been exhausted,
4 whichever occurs first.

5 (i) The State Board of Equalization shall, as requested by the
6 Department of Insurance, California Organized Investment
7 Network, or its successor, advise and assist in the administration
8 of this section.

9 (j) This section shall remain in effect only until December 31,
10 2007, and as of that date is repealed.

11 SEC. 201. Section 17053.57 of the Revenue and Taxation
12 Code is amended to read:

13 17053.57. (a) For each taxable year beginning on or after
14 January 1, 1997, and before January 1, 2007, there shall be allowed
15 as a credit against the amount of “net tax,” as defined in Section
16 17039, an amount equal to 20 percent of the amount of each
17 qualified investment made by a taxpayer during the taxable year
18 into a community development financial institution.

19 (b) Notwithstanding any other provision of this part, no credit
20 shall be allowed under this section unless the California Organized
21 Investment Network, or its successor within the Department of
22 Insurance, certifies that the investment described in subdivision
23 (a) qualifies for the credit under this section and certifies the total
24 amount of the credit allocated to the taxpayer pursuant to this
25 section. The aggregate amount of qualified investments made by
26 all taxpayers pursuant to this section, Section 12209, and Section
27 23657 shall not exceed ten million dollars (\$10,000,000) for each
28 calendar year. However, if the aggregate amount of qualified
29 investments made in any calendar year is less than ten million
30 dollars (\$10,000,000), the difference may be carried over to the
31 next year, and any succeeding year during which this section
32 remains in effect, and added to the aggregate amount authorized
33 for those years.

34 (c) The Community Development Financial Institution shall
35 do all of the following:

36 (1) Apply to the Department of Insurance, California
37 Organized Investment Network, or its successor, for certification
38 of its status as a Community Development Financial Institution.

39 (2) Apply to the Department of Insurance, California
40 Organized Investment Network, or its successor, on behalf of the

1 taxpayer for certification of the amount of the investment and the
2 credit amount allocated to the taxpayer, obtain the certification,
3 and retain a copy of the certification.

4 (3) Obtain the taxpayer's identification number, or in the case
5 of a partnership, the taxpayer identification numbers of all the
6 partners for tax administration purposes and provide this
7 information to the Department of Insurance, California Organized
8 Investment Network, or its successor, with the application
9 required in paragraph (2).

10 (4) Provide an annual listing to the Franchise Tax Board, in the
11 form and manner agreed upon by the Franchise Tax Board and the
12 Department of Insurance, California Organized Investment
13 Network, or its successor, of the names and taxpayer identification
14 numbers of any taxpayer who makes any withdrawal or partial
15 withdrawal of a qualified investment before the expiration of 60
16 months from the date of the qualified investment.

17 (d) The Department of Insurance, California Organized
18 Investment Network, or any successor thereof, shall do all of the
19 following:

20 (1) Accept applications for certification from financial
21 institutions and issue certificates that the applicant is a Community
22 Development Financial Institution qualified to receive qualified
23 investments.

24 (2) Accept applications for certification from any Community
25 Development Financial Institution on behalf of the taxpayer and
26 issue certificates to taxpayers in an aggregate amount that shall not
27 exceed the limit specified in subdivision (b). The certificate shall
28 include the amount eligible to be made as an investment that
29 qualifies for the credit and the total amount of the credit to which
30 the taxpayer is entitled for the taxable year. Certificates shall be
31 issued in the order in which the applications are received.

32 (3) Provide an annual listing to the Franchise Tax Board, in a
33 form or manner agreed upon by the Franchise Tax Board and the
34 Department of Insurance, California Organized Investment
35 Network, or its successor, of the taxpayers who were issued
36 certificates, their respective tax identification numbers, the
37 amount of the qualified investment made by each taxpayer, and the
38 total amount of all qualified investments.

39 (e) For purposes of this section:

(1) “Qualified investment” means a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor. All qualified investments must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified investment is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(g) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(h) The Franchise Tax Board shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(i) This section shall remain in effect only until December 1, 2007, and as of that date is repealed.

1 SEC. 202. Section 17073 of the Revenue and Taxation Code
2 is amended to read:

3 17073. (a) Section 63 of the Internal Revenue Code, relating
4 to taxable income defined, shall apply, except as otherwise
5 provided.

6 (b) The deduction allowed by Section 17208.1, relating to
7 interest on loans or financed indebtedness obtained from a publicly
8 owned utility for the purchase and installation of energy efficient
9 products or equipment, ~~shall~~ *may* not be treated as a miscellaneous
10 itemized deduction under Section 67(a) of the Internal Revenue
11 Code, relating to the 2-percent floor on miscellaneous deductions.

12 (c) For individuals who do not itemize deductions, the standard
13 deduction computed in accordance with Section 17073.5 shall be
14 allowed as a deduction in computing taxable income.

15 SEC. 203. Section 17942 of the Revenue and Taxation Code
16 is amended to read:

17 17942. (a) In addition to the tax imposed under Section
18 17941, every limited liability company subject to tax under
19 Section 17941 shall pay annually to this state a fee equal to:

20 (1) Nine hundred dollars (\$900), if the total income from all
21 sources reportable to this state for the taxable year is two hundred
22 fifty thousand dollars (\$250,000) or more, but less than five
23 hundred thousand dollars (\$500,000).

24 (2) Two thousand five hundred dollars (\$2,500), if the total
25 income from all sources reportable to this state for the taxable year
26 is five hundred thousand dollars (\$500,000) or more, but less than
27 one million dollars (\$1,000,000).

28 (3) Six thousand dollars (\$6,000), if the total income from all
29 sources reportable to this state for the taxable year is one million
30 dollars (\$1,000,000) or more, but less than five million dollars
31 (\$5,000,000). ~~Eleven~~

32 (4) *Eleven* thousand seven hundred ninety dollars (\$11,790), if
33 the total income from all sources reportable to this state for the
34 taxable year is five million dollars (\$5,000,000) or more.

35 (5) ~~(A)~~—This subdivision shall apply to taxable years beginning
36 on or after January 1, 1997.

37 (6) The changes made to this subdivision by the act adding this
38 paragraph shall apply to taxable years beginning on or after
39 January 1, 2001.

(b) (1) For purposes of this section, “total income” means gross income, as defined in Section 24271, plus the cost of goods sold that are paid or incurred in connection with the trade or business of the taxpayer. However, “total income” shall not include allocation or attribution of income or gain or distributions made to a limited liability company in its capacity as a member of, or holder of an economic interest in, another limited liability company if the allocation or attribution of income or gain or distributions are directly or indirectly attributable to income that is subject to the payment of the fee described in this section.

(2) In the event a taxpayer is a commonly controlled limited liability company, the total income from all sources reportable to this state, taking into account any election under Section 25110, may be determined by the Franchise Tax Board to be the total income of all the commonly controlled limited liability company members if it determines that multiple limited liability companies were formed for the primary purpose of reducing fees payable under this section. A determination by the Franchise Tax Board under this subdivision may only be made with respect to one limited liability company in a commonly controlled group. However, each commonly controlled limited liability company shall be jointly and severally liable for the fee. For purposes of this section, commonly controlled limited liability companies shall include the taxpayer and any other partnership or limited liability company doing business (as defined in Section 23101) in this state and required to file a return under Section 18633 or 18633.5, in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

(c) The fee assessed under this section shall be due and payable on the date the return of the limited liability company is required to be filed under Section 18633.5, shall be collected and refunded in the same manner as the taxes imposed by this part, and shall be subject to interest and applicable penalties.

SEC. 204. Section 18836 of the Revenue and Taxation Code is amended to read:

18836. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Lupus Foundation of America, California Chapters Fund, which is established by Section 18837. That designation is to be used as a voluntary contribution on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. If no designee is specified, the contribution shall be transferred to the General Fund after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the "Lupus Foundation of America, California Chapters Fund" to allow for the designation permitted. The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used for lupus education, awareness, and research.

(f) Notwithstanding any other provision, a voluntary contribution designation for the Lupus Foundation of America, California Chapters Fund ~~shall~~ may not be added on the tax return until another voluntary contribution designation is removed.

(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

SEC. 205. Section 19551.1 of the Revenue and Taxation Code is amended to read:

19551.1. (a) The Franchise Tax Board may permit the tax officials of any city to obtain tax information pursuant to subdivision (a) of Section 19551.

(b) The information furnished to tax officials of a city under this section shall be limited as follows:

(1) When requested pursuant to a written agreement, the taxing authority of a city may be granted tax information only ~~on~~ with

1 *respect to* taxpayers with an address as reflected on the Franchise
2 Tax Board's records within the jurisdictional boundaries of the city
3 who report income from a trade or business to the Franchise Tax
4 Board.

5 (2) The tax information that may be provided by the Franchise
6 Tax Board to a city is limited to a taxpayer's name, address, social
7 security or taxpayer identification number, and business activity
8 code.

9 (3) Tax information provided to the taxing authority of a city
10 may not be furnished to, or used by, any person other than an
11 employee of that taxing authority.

12 (4) Section 19542 applies to this section.

13 (5) Section 19542.1 applies to this section.

14 (c) The Franchise Tax Board may not provide any information
15 pursuant to this section until all of the following have occurred:

16 (1) An agreement has been executed between a city and the
17 Franchise Tax Board, that provides that an amount equal to all first
18 year costs necessary to furnish the city information pursuant to this
19 section shall be received by the Franchise Tax Board before the
20 Franchise Tax Board incurs any costs associated with the activity
21 permitted by this section. For purposes of this section, first year
22 costs include costs associated with, but not limited to, the
23 purchasing of equipment, the development of processes, and labor.

24 (2) An agreement has been executed between a city and the
25 Franchise Tax Board, that provides that the annual costs incurred
26 by the Franchise Tax Board, as a result of the activity permitted by
27 this section, shall be reimbursed by the city to the board.

28 (3) Pursuant to the agreement described in paragraph (1), the
29 Franchise Tax Board has received an amount equal to the first year
30 costs.

31 (d) This section does not invalidate any other law. This section
32 does not preclude any city or, city and county, from obtaining
33 information about individual taxpayers, including those taxpayers
34 exempt from this section, by any other means permitted by state
35 or federal law.

36 (e) This section shall remain in effect only until December 31,
37 2008, and as of that date, is repealed.

38 SEC. 206. Section 20543 of the Revenue and Taxation Code
39 is amended to read:

20543. (a) (1) The amount of assistance for a claimant owning his or her residential dwelling shall be based on *the* claimant's household income for the period set forth in Section 20503.

(2) For claims filed with respect to the 2001 calendar year and each calendar year thereafter, the percentage of assistance for which each claimant owning his or her residential dwelling shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than:		The percentage of tax on the first \$34,000 of full value (as determined for tax purposes) used to provide assistance is:
\$8,812		139%
9,400		136
9,987		133
10,575		131
11,163		128
11,750		125
12,337		122
12,925		119
13,513		116
14,101		113
14,688		110
15,275		106
15,863		100
16,451		94
17,038		88
17,626		83
18,213		77
18,800		71
19,389		65
19,976		59
20,564		54
21,151		49
21,738		45
22,327		41
22,914		36
23,500		32
24,088		29

1	24,675	26
2	25,263	23
3	25,851	20
4	26,438	17
5	27,908	15
6	29,376	12
7	30,846	10
8	32,314	9
9	33,783	7
10	35,251	6

11
12 (b) With respect to assistance that is provided by the Franchise
13 Tax Board pursuant to this chapter for the 2002 calendar year and
14 each year thereafter, the household income figures that apply to
15 assistance provided by the Franchise Tax Board during that period
16 shall be the household income figures that applied to assistance
17 provided by the Franchise Tax Board in the same period in the
18 immediately preceding year, multiplied by an inflation factor
19 calculated as follows:

20 (1) On or before February 1 of each year, the Department of
21 Industrial Relations shall transmit to the Franchise Tax Board the
22 percentage change in the California Consumer Price Index for all
23 items from June of the second preceding calendar year to June of
24 the immediately preceding calendar year.

25 (2) The Franchise Tax Board shall add 100 percent to the
26 percentage change figure that is furnished pursuant to paragraph
27 (1) and divide the result by 100.

28 (3) The Franchise Tax Board shall multiply the immediately
29 preceding household income figure by the inflation adjustment
30 factor determined in paragraph (2), and round off the resulting
31 product to the nearest one dollar (\$1).

32 SEC. 207. Section 21015.6 of the Revenue and Taxation Code
33 is amended to read:

34 21015.6. (a) No levy may be made on the principal residence
35 of any innocent investor or the proceeds from the sale or other
36 transaction involving the principal residence of an innocent
37 investor upon notification to the Franchise Tax Board that the
38 residence is the principal residence of an innocent investor and
39 substantiation of both of the following:



1 (1) The basis for that levy is an underpayment of any tax
2 imposed under Part 10 (commencing with Section 17001) for any
3 taxable year ending on or before December 31, 2000, that is
4 attributable to an abusive tax shelter.

5 (2) The principal residence is owned by an innocent investor.

6 (b) Any state tax lien recorded under Chapter 14 (commencing
7 with Section 7150) of Division 7 of Title 1 of the Government
8 Code, including a state tax lien described under Section
9 522(c)(2)(B) of Title 11 of the United States Code, relating to state
10 tax liens after bankruptcy, on the principal residence of an innocent
11 investor shall be released without satisfaction of the lien upon
12 notification to the Franchise Tax Board that the residence is the
13 principal residence of an innocent investor and substantiation of
14 both of the following:

15 (1) The basis for that lien is an underpayment of any tax
16 imposed under Part 10 (commencing with Section 17001) for any
17 taxable year ending on or before December 31, 2000, that is
18 attributable to an abusive tax shelter.

19 (2) The owner of that principal residence is an innocent
20 investor.

21 (c) For purposes of this section:

22 (1) “Abusive tax shelter” shall satisfy both of the following
23 requirements:

24 (A) Be a potentially abusive tax shelter within the meaning of
25 Section 6112 of the Internal Revenue Code.

26 (B) With respect to which either of the following has occurred:

27 (i) The Internal Revenue Service has imposed a penalty under
28 Section 6700 or 6701 of the Internal Revenue Code.

29 (ii) The Franchise Tax Board has imposed a penalty under
30 Section 19177 or 19178.

31 (2) “Innocent investor” means any individual (or the spouse or
32 former spouse of that individual) that satisfies each of the
33 following requirements:

34 (A) Is liable for underpayment of any tax imposed under Part
35 10 (commencing with Section 17001) for any taxable year ending
36 on or before December 31, 2000, that is attributable to ownership
37 of an interest in an abusive tax shelter.

38 (B) Had no responsibility for the creation, promotion,
39 operation, management, or control of the abusive tax shelter.

(C) During the tax years to which the underpayment described in subparagraph (A) relates, reasonably believed that the tax treatment of an item attributable to an abusive tax shelter was, more likely than not, the proper tax treatment.

(3) “Principal residence” includes any property that qualifies as a declared homestead as defined in Section 704.910 of the Code of Civil Procedure.

(d) Notification required by this section shall be made in the manner prescribed in forms and instructions of the Franchise Tax Board.

(e) (1) If, after January 1, 2002, the Franchise Tax Board has received proceeds from the sale of a principal residence by either levy or the satisfaction of a lien, the amounts received shall be returned to the owner upon notification to the Franchise Tax Board that the residence was the principal residence of an innocent investor and substantiation as specified in subdivision (a) or (b). The notification shall be made in writing and shall be considered a request for the return of the proceeds from the sale of the principal residence.

(2) If the Franchise Tax Board fails to mail notice of denial of the request for the return of the proceeds from the sale of the principal residence within six months after the date the request was submitted, the owner may, prior to the mailing of the notice of denial of the request, consider the request denied and may, in accordance with subdivision (f), bring an action against the Franchise Tax Board for the return of the proceeds from the sale of the principal residence.

(3) Amounts returned pursuant to paragraph (1) shall include interest at the adjusted annual rate established under Section 19521 from the date the amounts are received by the Franchise Tax Board until the date the amounts are returned.

(4) Any amounts required to be returned pursuant to this subdivision shall first be credited against any amount ~~then~~ due from the owner (other than an underpayment of tax described in subparagraph (A) of paragraph (2) of subdivision (c)) and the balance, if any, shall be returned to the owner.

(5) No amount may be credited or returned pursuant to this subdivision unless the notification and substantiation described in paragraph (1) occur before the expiration of the one-year period

1 beginning on the date the proceeds are received by the Franchise
2 Tax Board.

3 (f) (1) If the Franchise Tax Board denies a request for the
4 return of the proceeds from the sale of a principal residence, the
5 owner of the residence may bring an action against the Franchise
6 Tax Board for the return, in whole or in part, of the proceeds the
7 Franchise Tax Board received by levy or in satisfaction of a lien.

8 (2) The action described in paragraph (1) must be filed within
9 one year from the date the proceeds are received by the Franchise
10 Tax Board or within 90 days after the Franchise Tax Board notifies
11 the owner of the denial of his or her request for the return of the
12 proceeds from the sale of the principal residence, whichever
13 period expires later.

14 (3) Except as otherwise provided in this subdivision, an action
15 brought pursuant to this subdivision shall be governed by the
16 provisions of law applicable to an action authorized under Section
17 19382.

18 SEC. 208. Section 23684 of the Revenue and Taxation Code
19 is amended to read:

20 23684. (a) For each taxable year beginning on or after
21 January 1, 2001, and before January 1, 2004, there shall be allowed
22 as a credit against the "tax," as defined in Section 23036, an
23 amount equal to the lesser of 15 percent of the cost that is paid or
24 incurred by a taxpayer, after deducting the value of any other
25 municipal, state, or federal sponsored financial incentives, during
26 the taxable year for the purchase and installation of any solar
27 energy system installed on property in this state, or the applicable
28 dollar amount per rated watt of that solar energy system, as
29 determined by the Franchise Tax Board in consultation with the
30 State Energy Resources Conservation and Development
31 Commission.

32 (b) For each taxable year beginning on or after January 1, 2004,
33 and before January 1, 2006, there shall be allowed as a credit
34 against the ~~"net tax,"~~ "tax," as defined in Section ~~17039~~ 23036,
35 an amount equal to the lesser of 7.5 percent of the cost that is paid
36 or incurred by a taxpayer, after deducting the value of any other
37 municipal, state, or federal sponsored financial incentives, during
38 the taxable year for the purchase and installation of any solar
39 energy system installed on property in this state, or the applicable
40 dollar amount per rated watt of that solar energy system, as

1 determined by the Franchise Tax Board in consultation with the
2 State Energy Resources Conservation and Development
3 Commission.

4 (c) For purposes of this section:

5 (1) “Applicable dollar amount” means four dollars and fifty
6 cents (\$4.50) for any taxable year beginning on or after January 1,
7 2001, and before January 1, 2006.

8 (2) “Solar energy system” means a solar energy device, in the
9 form of either a photovoltaic or wind-driven system, with a peak
10 generating capacity of up to, but not more than, 200 kilowatts,
11 used for the individual function of generating electricity, that is
12 certified by the State Energy Resources Conservation and
13 Development Commission and installed with a five-year warranty
14 against breakdown or undue degradation.

15 (3) A credit may be allowed under this section with respect to
16 only one solar energy system per each separate legal parcel of
17 property or per each address of the taxpayer in the state.

18 (4) No credit may be allowed under this section unless the solar
19 energy system is actually used for purposes of producing
20 electricity and is primarily used to meet the taxpayer’s own energy
21 needs.

22 (d) No other credit and no deduction may be allowed under this
23 part for any cost for which a credit is allowed by this section. The
24 basis of the solar energy system shall be reduced by the amount
25 allowed as a credit under subdivision (a) or (b).

26 (e) No credit may be allowed to any taxpayer engaged in those
27 lines of business described in Sector 22 of the North American
28 Industry Classification System (NAICS) Manual published by the
29 United States Office of Management and Budget, 1997 edition.

30 (f) If any solar energy system for which a credit is allowed
31 pursuant to this section is thereafter sold or removed from this state
32 within one year from the date the solar energy system is first placed
33 in service in this state, the amount of credit allowed by this section
34 for that solar energy system shall be recaptured by adding that
35 credit amount to the tax of the taxpayer for the taxable year in
36 which the solar energy system is sold or removed.

37 (g) In the case where the credit allowed by this section exceeds
38 the “tax,” the excess may be carried over to reduce the “tax” in
39 the following year, and the succeeding seven years if necessary,
40 until the credit is exhausted.

(h) This section shall remain in effect only until December 1, 2006, and as of that date is repealed.

SEC. 209. Section 32402 of the Revenue and Taxation Code is amended to read:

32402. (a) Except as provided in subdivision (b) no refund shall be approved by the board after three years from the 15th day of the calendar month following the close of the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 32271), *Article* 3 (commencing with Section 32291), or *Article* 5 (commencing with Section 32311) of Chapter 6 after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period unless a claim for credit is filed with the board within that period, or unless the credit relates to a period for which a waiver is given pursuant to Section 32273.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 32273, if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

SEC. 210. Section 730.5 of the Streets and Highways Code is amended to read:

730.5. Any person who by any means, without a permit issued by the department, digs up, cuts down, destroys, prunes, trims, or otherwise injures any tree or shrub on any state highway, rights-of-way, or property shall be liable ~~to~~*for* a penalty in the sum of ten thousand dollars (\$10,000) for each tree so damaged and one thousand dollars (\$1,000) for each shrub so damaged; and the department, in the name of the people of the State of California, may recover the penalty in an action at law, in a court of competent jurisdiction, together with the costs and expenses, including attorney and expert fees, incurred in the action and the actual costs incurred because of the damage to any tree or shrub on state property.

SEC. 211. Section 15076.5 of the Unemployment Insurance Code is amended to read:



1 15076.5. The California Workforce Investment Board shall
2 do all of the following:

3 (a) Be the lead state agency to establish policies for:

4 (1) Alleviating adverse conditions that might cause plant
5 closures and, where closures are unavoidable, assisting local
6 efforts to secure alternative employment and retraining
7 opportunities for displaced workers.

8 (2) Marshaling available state and federal resources to aid
9 workers and communities affected by major plant closures and to
10 foster long-term economic vitality, industrial growth, and job
11 opportunities.

12 (3) Integrating appropriate activities of the *Technology*, Trade
13 and Commerce Agency, the Employment Development
14 Department, the Employment Training Panel, the Department of
15 Industrial Relations, the State Department of Education, the
16 Chancellor's Office of the California Community Colleges, and
17 the Governor's Office of Planning and Research with the State
18 Dislocated Worker Unit.

19 (4) Collection of data and preparation of economic analyses
20 and reporting, intended to provide better and more detailed
21 assessments of future trends within the industrial, commercial, and
22 agricultural sectors of the economy.

23 (b) Review and comment on the plans for displaced worker
24 assistance programs submitted pursuant to Section 15076.

25 (c) Recommend to the Governor necessary components of state
26 plans under the jurisdiction of other state offices, departments, or
27 agencies that administer programs appropriate for coordination
28 with dislocated worker assistance programs authorized by this
29 chapter.

30 (d) Review and make recommendations to the Governor and
31 the Legislature regarding changes needed in current federal and
32 state statutes and programs in order to minimize adverse
33 consequences of plant closures and promote rapid reemployment
34 of workers and revitalization of communities.

35 SEC. 212. Section 286 of the Vehicle Code is amended to
36 read:

37 286. The term "dealer" does not include any of the following:

38 (a) Insurance companies, banks, finance companies, public
39 officials, or any other ~~person~~ *persons* coming into possession of
40 vehicles in the regular course of business, who ~~sells~~ *sell* vehicles

1 under a contractual right or obligation, in performance of an
2 official duty, or in authority of any court of law, if the sale is for
3 the purpose of saving the seller from loss or pursuant to the
4 authority of a court.

5 (b) Persons who sell or distribute vehicles of a type subject to
6 registration or trailers subject to identification pursuant to Section
7 5014.1 for a manufacturer to vehicle dealers licensed under this
8 code, or who are employed by manufacturers or distributors to
9 promote the sale of vehicles dealt in by those manufacturers or
10 distributors. However, any of those persons who also sell vehicles
11 at retail are vehicle dealers and are subject to this code.

12 (c) Persons regularly employed as salespersons by vehicle
13 dealers licensed under this code while acting within the scope of
14 that employment.

15 (d) Persons engaged exclusively in the bona fide business of
16 exporting vehicles or of soliciting orders for the sale and delivery
17 of vehicles outside the territorial limits of the United States, if no
18 federal excise tax is legally payable or refundable on any of the
19 transactions. Persons not engaged exclusively in the bona fide
20 business of exporting vehicles, but who are engaged in the
21 business of soliciting orders for the sale and delivery of vehicles,
22 outside the territorial limits of the United States are exempt from
23 licensure as dealers only if their sales of vehicles produce less than
24 10 percent of their total gross revenue from all business transacted.

25 (e) Persons not engaged in the purchase or sale of vehicles as
26 a business, who dispose of any vehicle acquired and used in good
27 faith, for their own personal use, or for use in their business, and
28 not for the purpose of avoiding the provisions of this code.

29 (f) Persons who are engaged in the purchase, sale, or exchange
30 of vehicles, other than motorcycles subject to identification under
31 this code, ~~which~~ *that* are not intended for use on the highways.

32 (g) Persons temporarily retained as auctioneers solely for the
33 purpose of disposing of vehicle stock inventories by means of
34 public auction on behalf of the owners at the owners' place of
35 business, or as otherwise approved by the department, if
36 intermediate physical possession or control of, or an ownership
37 interest in, the inventory is not conveyed to the persons so retained.

38 (h) Persons who are engaged exclusively in the business of
39 purchasing, selling, servicing, or exchanging racing vehicles,
40 parts for racing vehicles, and trailers designed and intended by the

1 manufacturer to be used exclusively for carrying racing vehicles.
2 For purposes of this subdivision, “racing vehicle” means a motor
3 vehicle of a type used exclusively in a contest of speed or in a
4 competitive trial of speed ~~which~~ *that* is not intended for use on the
5 highways.

6 (i) Any person who is a lessor.

7 (j) Any person who is a renter.

8 (k) Any salvage pool.

9 (l) Any yacht broker who is subject to the Yacht and Ship
10 Brokers Act (Article 2 (commencing with Section 700) of Chapter
11 5 of Division 3 of the Harbors and Navigation Code) and who sells
12 used boat trailers in conjunction with the sale of a vessel.

13 (m) Any licensed automobile dismantler who sells vehicles
14 that have been reported for dismantling as provided in Section
15 11520.

16 (n) The Director of Corrections when selling vehicles pursuant
17 to Section 2813.5 of the Penal Code.

18 (o) (1) Any public or private nonprofit charitable, religious, or
19 educational institution or organization that sells vehicles if all of
20 the following conditions are met:

21 (A) The institution or organization qualifies for state
22 tax-exempt status under Section 23701d of the Revenue and
23 Taxation Code, and tax-exempt status under Section 501(c)(3) of
24 the federal Internal Revenue Code.

25 (B) The vehicles sold were donated to the nonprofit charitable,
26 religious, or educational institution or organization.

27 (C) The vehicles subject to retail sale meet all of the applicable
28 equipment requirements of Division 12 (commencing with
29 Section 24000) and are in compliance with emission control
30 requirements as evidenced by the issuance of a certificate pursuant
31 to subdivision (b) of Section 44015 of the Health and Safety Code.
32 Under no circumstances may any institution or organization
33 transfer the responsibility of obtaining a smog inspection
34 certificate to the buyer of the vehicle.

35 (D) The proceeds of the sale of the vehicles are retained by that
36 institution or organization for its charitable, religious, or
37 educational purposes.

38 (2) An institution or organization described in paragraph (1)
39 may sell vehicles on behalf of another institution or organization
40 under the following conditions:

1 (A) The nonselling institution or organization meets the
2 requirements of paragraph (1).

3 (B) The selling and nonselling institutions or organizations
4 enter into a signed, written agreement pursuant to subparagraph
5 (A) of paragraph (3) of subdivision (a) of Section 1660.

6 (C) The selling institution or organization transfers the
7 proceeds from the sale of each vehicle to the nonselling institution
8 or organization within 45 days of the sale. All net proceeds
9 transferred to the nonselling institution or organization shall
10 clearly be identifiable to the sale of a specific vehicle. The selling
11 institution or organization may retain a percentage of the proceeds
12 from the sale of a particular vehicle. However, any retained
13 proceeds shall be used by the selling institution or organization for
14 its charitable, religious, or educational purposes.

15 (D) At the time of transferring the proceeds, the selling
16 institution or organization shall provide to the nonselling
17 institution or organization, an itemized listing of the vehicles sold
18 and the amount for which each vehicle was sold.

19 (E) In the event the selling institution or organization cannot
20 complete a retail sale of a particular vehicle, or if the vehicle
21 cannot be transferred as a wholesale transaction to a dealer
22 licensed under this code, the vehicle shall be returned to the
23 nonselling institution or organization and the written agreement
24 revised to reflect that return. Under no circumstances may a selling
25 institution or organization transfer or donate the vehicle to a third
26 party that is excluded from the definition of a dealer under this
27 section.

28 (3) An institution or organization described in this subdivision
29 shall retain all records required to be retained pursuant to Section
30 1660.

31 (p) Any motor club, as defined in Section 12142 of the
32 Insurance Code, that does not arrange or negotiate individual
33 motor vehicle purchase transactions on behalf of its members but
34 refers members to a new motor vehicle dealer for the purchase of
35 a new motor vehicle and does not receive a fee from the dealer
36 contingent upon the sale of the vehicle.

37 SEC. 213. Section 672 of the Vehicle Code is amended to
38 read:

39 672. (a) "Vehicle manufacturer" is any person who produces
40 from raw materials or new basic components a vehicle of a type

1 subject to registration under this code, off-highway motorcycles
2 subject to identification under this code, or trailers subject to
3 identification pursuant to Section 5014.1, or who permanently
4 alters, for purposes of retail sales, new commercial vehicles by
5 converting the vehicles into housecars that display the insignia of
6 approval required by Section 18056 of the Health and Safety Code
7 and any regulations issued pursuant thereto by the Department of
8 Housing and Community Development. As used in this section,
9 “permanently alters” does not include the permanent attachment
10 of a camper to a vehicle.

11 (b) A vehicle manufacturer ~~who~~ *that* produces a vehicle of a
12 type subject to registration that consists of used or reconditioned
13 parts, for the purposes of the code, is a remanufacturer, as defined
14 in Section 507.8.

15 (c) Unless a vehicle manufacturer either grants franchises to
16 franchisees in this state, or issues vehicle warranties directly to
17 franchisees in this state or consumers in this state, the
18 manufacturer shall have an established place of business or a
19 representative in this state.

20 (d) The scope and application of this section are limited to
21 Division 2 (commencing with Section 1500) and Division 5
22 (commencing with Section 11100).

23 SEC. 214. Section 5017 of the Vehicle Code is amended to
24 read:

25 5017. (a) Each identification plate issued under Section 5016
26 shall bear a distinctive number to identify the equipment, logging
27 vehicle, trailer, semitrailer, or implement of husbandry for which
28 it is issued. The owner, upon being issued a plate, shall attach it to
29 the equipment, logging vehicle, or implement of husbandry for
30 which it is issued and shall carry the identification certificate
31 issued by the department as provided by Section 4454. It shall be
32 unlawful for any person to attach or use the plate upon any other
33 equipment, logging vehicle, trailer, semitrailer, or implement of
34 husbandry. If the equipment, logging vehicle, or implement of
35 husbandry is destroyed or the ownership thereof transferred to
36 another person, the person to whom the plate was issued shall
37 within 10 days notify the department, on a form approved by the
38 department, that the equipment, logging vehicle, trailer,
39 semitrailer, or implement of husbandry has been destroyed or the
40 ownership thereof transferred to another person.



(b) Upon the implementation of the permanent trailer identification plate program, all trailers except those exempted in ~~paragraph~~ *paragraphs* (1) and (3) of subdivision (a) of Section 5014.1 may be assigned a single permanent plate for identification purposes. Upon issuance of the plate, it shall be attached to the vehicle pursuant to Sections 5200 and 5201.

(c) An identification certificate shall be issued for each trailer or semitrailer assigned an identification plate. The identification certificate shall contain upon its face, the date issued, the name and residence or business address of the registered owner or lessee and of the legal owner, if any, the vehicle identification number assigned to the trailer or semitrailer, and a description of the trailer or semitrailer as complete as that required in the application for registration of the trailer or semitrailer. For those trailers registered under Article 4 (commencing with Section 8050) of Chapter 4 on the effective date of the act adding this sentence that are being converted to the permanent trailer identification program, the identification card may contain only the name of the registrant, and the legal owner's name is not required to be shown. Upon transfer of those trailers, the identification card shall contain the name of the owner and legal owner, if any. When an identification certificate has been issued to a trailer or semitrailer, the owner or operator shall make that certificate available for inspection by a peace officer upon request.

(d) The application for transfer of ownership of a vehicle with a trailer plate or permanent trailer identification plate shall be made within 10 days of sale of the vehicle. The permanent trailer identification certificate is not a certificate of ownership as described in Section 38076.

SEC. 215. Section 5068 of the Vehicle Code, as added by Section 2 of Chapter 201 of the Statutes of 2001, is amended to read:

5068. (a) (1) Any veterans' organization may apply either individually or with other veterans' organizations to meet the 5,000 application threshold set forth in Section 5060 for special interest plates. An organization that meets the 5,000 minimum application requirement by applying with other organizations pursuant to this subdivision shall be issued a regular license plate bearing a distinctive design or decal approved pursuant to subdivision (a) of Section 5060.

(2) Special interest plates issued pursuant to this section may be issued in a combination of numbers or letters, or both, requested by the owner or lessee of the vehicle, to be displayed in addition to the design or decal authorized under paragraph (1), subject to Section 5105.

(b) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following fees shall be paid by individuals applying for a veterans' organization special interest license plate or decal:

(1) Thirty dollars (\$30) for the initial issuance of the plates and decals. The plates shall be permanent and shall not be required to be replaced.

(2) Thirty dollars (\$30) for each renewal of registration which includes the continued display of the plates or decals.

(3) Fifteen dollars (\$15) for transfer of the plates to another vehicle.

(4) Thirty-five dollars (\$35) for replacement plates ~~and or ten dollars (\$10) for replacement decals~~, if they become damaged or unserviceable.

(5) *Ten dollars (\$10) for replacement decals, if they become damaged or unserviceable.*

(6) Forty dollars (\$40) for the personalization of the plates, as authorized under paragraph (2) of subdivision (a).

(c) This section shall become operative on July 1, 2002.

SEC. 216. Section 9250.7 of the Vehicle Code is amended to read:

9250.7. (a) (1) A service authority established under Section 22710 may impose a service fee of one dollar (\$1) on all vehicles, except vehicles described in subdivision (a) of Section 5014.1, registered to an owner with an address in the county that established the service authority. The fee shall be paid to the department at the time of registration, or renewal of registration, or when renewal becomes delinquent, except on vehicles that are expressly exempted under this code from the payment of registration fees.

(2) In addition to the one dollar (\$1) service fee, and upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001, all commercial motor vehicles subject to Section 9400.1 registered to an owner with an address in the county that

1 established a service authority under this section; shall pay an
2 additional service fee of two dollars (\$2).

3 (b) The department, after deducting its administrative costs,
4 shall transmit, at least quarterly, the net amount collected pursuant
5 to subdivision (a) to the Treasurer for deposit in the Abandoned
6 Vehicle Trust Fund, which is hereby created. All money in the fund
7 is continuously appropriated to the Controller for allocation to a
8 service authority that has an approved abandoned vehicle
9 abatement program pursuant to Section 22710, and for payment of
10 the administrative costs of the Controller. After deduction of its
11 administrative costs, the Controller shall allocate the money in the
12 Abandoned Vehicle Trust Fund to each service authority in
13 proportion to the revenues received from the fee imposed by that
14 authority pursuant to subdivision (a). If any funds received by a
15 service authority pursuant to this section are not expended to abate
16 abandoned vehicles pursuant to an approved abandoned vehicle
17 abatement program that has been in existence for at least two full
18 fiscal years within 90 days of the close of the fiscal year in which
19 the funds were received and the amount of those funds exceeds the
20 amount expended by the service authority for the abatement of
21 abandoned vehicles in the previous fiscal year, a fee imposed
22 pursuant to subdivision (a) shall be suspended for one year,
23 commencing on the July 1 following the Controller's
24 determination pursuant to subdivision (e).

25 (c) Every service authority that imposes a fee authorized by
26 subdivision (a) shall issue a fiscal yearend report to the Controller
27 on or before October 31 of each year summarizing all of the
28 following:-

29 (1) The total revenues received by the service authority for the
30 previous fiscal year.

31 (2) The total expenditures by the service authority for the
32 previous fiscal year.

33 (3) The total number of vehicles abated during the previous
34 fiscal year.

35 (4) The average cost per abatement during the previous fiscal
36 year.

37 (5) Any additional, unexpended fee revenues for the service
38 authority for the previous fiscal year.

39 (d) Each service authority that fails to submit the report
40 required pursuant to subdivision (c) by November 30 of each year

1 shall have the fee suspended for one year pursuant to subdivision
2 (b).

3 (e) On or before January 1, 2003, and on or before January 1
4 annually thereafter, the Controller shall review the fiscal yearend
5 reports submitted by each service authority pursuant to
6 subdivision (c) to determine if fee revenues are being utilized in
7 a manner consistent with the service authority's program. If the
8 Controller determines that the use of the fee revenues is not
9 consistent with the service authority's program, or that an excess
10 of fee revenues exists, as specified in subdivision (b), the authority
11 to collect the fee shall be suspended for one year pursuant to
12 subdivision (b). If the Controller determines that a service
13 authority has not submitted a fiscal yearend report as required in
14 subdivision (c), the authorization to collect the service fee shall be
15 suspended for one year pursuant to subdivision (d). The Controller
16 shall inform the Department of Motor Vehicles on or before
17 January 1, 2003, and on or before January 1 annually thereafter,
18 that the authority to collect the fee is suspended. A suspension shall
19 only occur if the service authority has been in existence for at least
20 two full fiscal years and the revenue fee surpluses are in excess of
21 those allowed under this section or the fiscal yearend report has not
22 been submitted.

23 (f) On or before January 1, 2003, and on or before January 1
24 annually thereafter, the Controller shall prepare and submit to the
25 Legislature a revenue and expenditure summary for each service
26 authority established under Section 22710 that includes, but is not
27 limited to, all of the following:

- 28 (1) The total revenues received by each service authority.
- 29 (2) The total expenditures by each service authority.
- 30 (3) The unexpended revenues for each service authority.
- 31 (4) The total number of vehicle abatements for each service
32 authority.
- 33 (5) The average cost per abatement as provided by each service
34 authority to the Controller pursuant to subdivision (c).

35 (g) The fee imposed by a service authority shall remain in effect
36 only for a period of 10 years from the date that the actual collection
37 of the fee commenced unless the fee is extended pursuant to this
38 subdivision. The fee may be extended in increments of up to 10
39 years each if the board of supervisors of the county, by a two-thirds
40 vote, and a majority of the cities having a majority of the

1 incorporated population within the county adopt resolutions
2 providing for the extension of the fee.

3 SEC. 217. Section 12517.5 of the Vehicle Code is amended to
4 read:

5 12517.5. A person who is employed as a driver of a paratransit
6 vehicle shall not operate that vehicle unless the person meets both
7 of the following requirements:

8 (a) Has in his or her immediate possession a valid driver's
9 license of a class appropriate to the vehicle driven.

10 (b) Successfully completes, during each calendar year, four
11 hours of training administered by, or at the direction of, his or her
12 employer or the employer's agent on the safe operation of
13 paratransit vehicles and four hours of training on the special
14 transportation needs of the persons he or she is employed to
15 transport.

16 This subdivision may be satisfied if the driver receives
17 transportation training or a certificate, or both, pursuant to Section
18 ~~38157, 38158, 38161, 38162, or 38165~~ 40082, 40083, 40085,
19 40085.5, or 40088 of the Education Code.

20 The employer shall maintain a record of the current training
21 received by each driver in his or her employ and shall present that
22 record on demand to any authorized representative of the
23 Department of the California Highway Patrol.

24 SEC. 218. Section 12811 of the Vehicle Code, as amended by
25 Section 5 of Chapter 740 of the Statutes of 2001, is amended to
26 read:

27 12811. (a) (1) When the department determines that the
28 applicant is lawfully entitled to a license, it shall issue to the person
29 a driver's license as applied for. The license shall state the class of
30 license for which the licensee has qualified and shall contain the
31 distinguishing number assigned to the applicant, the date of
32 expiration, the true full name, age, and mailing address of the
33 licensee, a brief description and engraved picture or photograph of
34 the licensee for the purpose of identification, and space for the
35 signature of the licensee.

36 Each license shall also contain a space for the endorsement of
37 a record of each suspension or revocation thereof.

38 The department shall use whatever process or processes, in the
39 issuance of engraved or colored licenses, that prohibit, as near as
40 possible, the ability to alter or reproduce the license, or prohibit the



1 ability to superimpose a picture or photograph on the license
2 without ready detection.

3 (2) In addition to the requirements of paragraph (1), a license
4 issued to a person under 18 years of age shall display the words
5 “provisional until age 18.”

6 (b) The department shall provide a form that, when completed,
7 may be carried with the license, by which the licensee may indicate
8 his or her willingness and intent to make an anatomical gift,
9 including the gift of a pacemaker, or his or her refusal to make an
10 anatomical gift pursuant to Section 7150.5 of the Health and
11 Safety Code, and, if applicable, the date that a pacemaker was
12 implanted. The form shall be designed to obtain information
13 sufficient to identify the nature of the anatomical gift and shall
14 include, but not be limited to, all of the following:

15 (1) A space for the signature of the potential donor.

16 (2) A space for the signature of one or more witnesses, which
17 should include the spouse, parent, or adult child of the donor or any
18 other next of kin.

19 (3) A statement sufficient in its terms to meet the requirements
20 of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing
21 with Section 7150) of Part 1 of Division 7 of the Health and Safety
22 Code).

23 (4) A space for the donor to indicate whether the donor desires
24 to donate tissues or organs, or both, or the donor’s entire body for
25 the purpose of transplantation or medical research, or both.

26 (5) Text informing the donor that the form is a legally binding
27 document, which shall remain binding after death despite any
28 expressed desires of next of kin opposed to the donation.

29 (6) Text requiring the donor to discuss the decision to donate
30 with family, friends, or any other person who might be directly
31 affected by the donation, particularly those next of kin who might
32 object to the decision and a space for the donor’s initials to
33 acknowledge that it is the donor’s responsibility to comply with
34 this requirement.

35 (7) Text informing the donor that rescission of the decision to
36 donate shall require the completion of a new form and the removal
37 of the sticker described in Section 1672.5 from the driver’s license
38 or identification card.

(c) (1) The statement required under paragraph (3) of subdivision (b) shall not be deemed to be effective unless both of the following conditions have been met:

(A) The statement is signed by the licensee.

(B) The licensee is 18 years of age or older at the time of signing.

(2) If the licensee cannot sign, the statement may be signed for the licensee, at his or her direction and in his or her presence, in the presence of two witnesses who shall sign the statement in his or her presence.

(d) The department shall present the form provided under subdivision (b), and explain its use, to each applicant for a license or license renewal.

(e) The anatomical gift shall become effective upon the death of the licensee.

(f) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the form provided pursuant to subdivision (b).

(g) No contract may be let to any nongovernmental entity for the processing of driver's licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

~~(h) This section shall become operative on the date determined under subdivision (a) of Section 1672.3.~~

~~(i) This section shall become inoperative on the date the Director of Finance makes the determination described in subdivision (d) of Section 7152.7 of the Health and Safety Code.~~

SEC. 219. Section 14602.6 of the Vehicle Code is amended to read:

14602.6. (a) Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked or without ever having been issued a driver's license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person in accordance with Chapter 10 (commencing with Section 22650) of Division 11. A vehicle so impounded shall be impounded for 30 days.

1 The impounding agency, within two working days of
2 impoundment, shall send a notice by certified mail, return receipt
3 requested, to the legal owner of the vehicle, at the address obtained
4 from the department, informing the owner that the vehicle has
5 been impounded. Failure to notify the legal owner within two
6 working days shall prohibit the impounding agency from charging
7 for more than 15 days' impoundment when the legal owner
8 redeems the impounded vehicle. The impounding agency shall
9 maintain a published telephone number that provides information
10 24 hours a day regarding the impoundment of vehicles and the
11 rights of a registered owner to request a hearing.

12 (b) The registered and legal owner of a vehicle that is removed
13 and seized under subdivision (a) or their agents shall be provided
14 the opportunity for a storage hearing to determine the validity of,
15 or consider any mitigating circumstances attendant to, the storage,
16 in accordance with Section 22852.

17 (c) Any period in which a vehicle is subjected to storage under
18 this section shall be included as part of the period of impoundment
19 ordered by the court under subdivision (a) of Section 14602.5.

20 (d) (1) An impounding agency shall release a vehicle to the
21 registered owner or his or her agent prior to the end of 30 days'
22 impoundment under any of the following circumstances:

23 (A) When the vehicle is a stolen vehicle.

24 (B) When the vehicle is subject to bailment and is driven by an
25 unlicensed employee of a business establishment, including a
26 parking service or repair garage.

27 (C) When the license of the driver was suspended or revoked
28 for an offense other than those included in Article 2 (commencing
29 with Section 13200) of Chapter 2 of Division 6 or Article 3
30 (commencing with Section 13350) of Chapter 2 of Division 6.

31 (D) When the vehicle was seized under this section for an
32 offense that does not authorize the seizure of the vehicle.

33 (E) When the driver reinstates his or her driver's license or
34 acquires a driver's license and proper insurance.

35 (2) No vehicle shall be released pursuant to this subdivision
36 without presentation of the registered owner's or agent's currently
37 valid driver's license to operate the vehicle and proof of current
38 vehicle registration, or upon order of a court.

1 (e) The registered owner or his or her agent is responsible for
2 all towing and storage charges related to the impoundment; and
3 any administrative charges authorized under Section 22850.5.

4 (f) A vehicle removed and seized under subdivision (a) shall be
5 released to the legal owner of the vehicle or the legal owner's agent
6 prior to the end of 30 days' impoundment if all of the following
7 conditions are met:

8 (1) The legal owner is a motor vehicle dealer, bank, credit
9 union, acceptance corporation, or other licensed financial
10 institution legally operating in this state or is another person, not
11 the registered owner, holding a security interest in the vehicle.

12 (2) The legal owner or the legal owner's agent pays all towing
13 and storage fees related to the seizure of the vehicle. No lien sale
14 processing fees shall be charged to the legal owner who redeems
15 the vehicle prior to the 15th day of impoundment. Neither the
16 impounding authority nor any person having possession of the
17 vehicle shall collect from the legal owner of the type specified in
18 paragraph (1); or the legal owner's agent any administrative
19 charges imposed pursuant to Section 22850.5 unless the legal
20 owner voluntarily requested a poststorage hearing.

21 (3) The legal owner or the legal owner's agent presents either
22 lawful foreclosure documents or an affidavit of repossession for
23 the vehicle, and a security agreement or title showing proof of
24 legal ownership for the vehicle. Any documents presented may be
25 originals, photocopies, or facsimile copies, or may be transmitted
26 electronically. The impounding agency may require the agent of
27 the legal owner to produce a photocopy or facsimile copy of its
28 repossession agency license or registration issued pursuant to
29 Chapter 11 (commencing with Section 7500) of Division 3 of the
30 Business and Professions Code, or to demonstrate, to the
31 satisfaction of the impounding agency, that the agent is exempt
32 from licensure pursuant to Section 7500.2 or 7500.3 of the
33 Business and Professions Code.

34 No administrative costs authorized under subdivision (a) of
35 Section 22850.5 shall be charged to the legal owner of the type
36 specified in paragraph (1); who redeems the vehicle unless the
37 legal owner voluntarily requests a poststorage hearing. No city,
38 county, city or county, or state agency shall require a legal owner
39 or a legal owner's agent to request a poststorage hearing as a
40 requirement for release of the vehicle to the legal owner or the

1 legal owner's agent. The impounding agency shall not require any
2 documents other than those specified in this paragraph.

3 As used in this paragraph, "foreclosure documents" means an
4 "assignment" as that term is defined in subdivision (o) of Section
5 7500.1 of the Business and Professions Code.

6 (g) (1) A legal owner or the legal owner's agent that obtains
7 release of the vehicle pursuant to subdivision (f) may not release
8 the vehicle to the registered owner of the vehicle or any agents of
9 the registered owner, unless the registered owner is a rental car
10 agency, until after the termination of the 30-day impoundment
11 period.

12 (2) The legal owner or the legal owner's agent may not
13 relinquish the vehicle to the registered owner until the registered
14 owner or that owner's agent presents his or her valid driver's
15 license or valid temporary driver's license to the legal owner or the
16 legal owner's agent. The legal owner or the legal owner's agent
17 shall make every reasonable effort to ensure that the license
18 presented is valid.

19 (3) Prior to relinquishing the vehicle, the legal owner may
20 require the registered owner to pay all towing and storage charges
21 related to the impoundment and any administrative charges
22 authorized under Section 22850.5 that were incurred by the legal
23 owner in connection with obtaining custody of the vehicle.

24 (h) (1) A vehicle removed and seized under subdivision (a)
25 shall be released to a rental car agency prior to the end of 30 days'
26 impoundment if the agency is either the legal owner or registered
27 owner of the vehicle and the agency pays all towing and storage
28 fees related to the seizure of the vehicle.

29 (2) The owner of a rental vehicle that was seized under this
30 section may continue to rent the vehicle upon recovery of the
31 vehicle. However, the rental car agency may not rent another
32 vehicle to the driver of the vehicle that was seized until 30 days
33 after the date that the vehicle was seized.

34 (3) The rental car agency may require the person to whom the
35 vehicle was rented to pay all towing and storage charges related to
36 the impoundment and any administrative charges authorized
37 under Section 22850.5 that were incurred by the rental car agency
38 in connection with obtaining custody of the vehicle.

39 (i) Notwithstanding any other provision of this section, the
40 registered owner and not the legal owner shall remain responsible

1 for any towing and storage charges related to the impoundment,
2 any administrative charges authorized under Section 22850.5, and
3 any parking fines, penalties, and administrative fees incurred by
4 the registered owner.

5 (j) The impounding agency shall not be liable to the registered
6 owner for the improper release of the vehicle to the legal owner or
7 the legal owner's agent provided the release complies with the
8 provisions of this section.

9 SEC. 220. Section 14602.7 of the Vehicle Code is amended to
10 read:

11 14602.7. (a) A magistrate presented with the affidavit of a
12 peace officer establishing reasonable cause to believe that a
13 vehicle, described by vehicle type and license number, was an
14 instrumentality used in the peace officer's presence in violation of
15 Sections 2800.1, 2800.2, 2800.3, or 23103, shall issue a warrant
16 or order authorizing any peace officer to immediately seize and
17 cause the removal of the vehicle. The warrant or court order may
18 be entered into a computerized data base. A vehicle so impounded
19 may be impounded for a period not to exceed 30 days.

20 The impounding agency, within two working days of
21 impoundment, shall send a notice by certified mail, return receipt
22 requested, to the legal owner of the vehicle, at the address obtained
23 from the department, informing the owner that the vehicle has
24 been impounded and providing the owner with a copy of the
25 warrant or court order. Failure to notify the legal owner within two
26 working days shall prohibit the impounding agency from charging
27 for more than 15 days impoundment when a legal owner redeems
28 the impounded vehicle.

29 (b) (1) An impounding agency shall release a vehicle to the
30 registered owner or his or her agent prior to the end of the
31 impoundment period and without the permission of the magistrate
32 authorizing the vehicle's seizure under any of the following
33 circumstances:

34 (A) When the vehicle is a stolen vehicle.

35 (B) When the vehicle is subject to bailment and is driven by an
36 unlicensed employee of the business establishment, including a
37 parking service or repair garage.

38 (C) When the registered owner of the vehicle causes a peace
39 officer to reasonably believe, based on the totality of the
40 circumstances, that the registered owner was not the driver who

1 violated Section 2800.1, 2800.2, or 2800.3, the agency shall
2 immediately release the vehicle to the registered owner or his or
3 her agent.

4 (2) No vehicle shall be released pursuant to this subdivision,
5 except upon presentation of the registered owner's or agent's
6 currently valid driver's license to operate the vehicle and proof of
7 current vehicle registration, or upon order of the court.

8 (c) (1) Whenever a vehicle is impounded under this section,
9 the magistrate ordering the storage shall provide the vehicle's
10 registered and legal owners of record, or their agents, with the
11 opportunity for a poststorage hearing to determine the validity of
12 the storage.

13 (2) A notice of the storage shall be mailed or personally
14 delivered to the registered and legal owners within 48 hours after
15 issuance of the warrant or court order, excluding weekends and
16 holidays, by the person or agency executing the warrant or court
17 order, and shall include all of the following information:

18 (A) The name, address, and telephone number of the agency
19 providing the notice.

20 (B) The location of the place of storage and a description of the
21 vehicle, which shall include, if available, the name or make, the
22 manufacturer, the license plate number, and the mileage of the
23 vehicle.

24 (C) A copy of the warrant or court order and the peace officer's
25 affidavit, as described in subdivision (a).

26 (D) A statement that, in order to receive their poststorage
27 hearing, the owners, or their agents, are required to request the
28 hearing from the magistrate issuing the warrant or court order in
29 person, in writing, or by telephone, within 10 days of the date of
30 the notice.

31 (3) The poststorage hearing shall be conducted within two
32 court days after receipt of the request for the hearing.

33 (4) At the hearing, the magistrate may order the vehicle
34 released if he or she finds any of the circumstances described in
35 subdivision (b) or (e) that allow release of a vehicle by the
36 impounding agency. The magistrate may also consider releasing
37 the vehicle when the continued impoundment will cause undue
38 hardship to persons dependent upon the vehicle for employment
39 or to a person with a community property interest in the vehicle.

1 (5) Failure of either the registered or legal owner, or his or her
2 agent, to request, or to attend, a scheduled hearing satisfies the
3 poststorage hearing requirement.

4 (6) The agency employing the peace officer who caused the
5 magistrate to issue the warrant or court order shall be responsible
6 for the costs incurred for towing and storage if it is determined in
7 the poststorage hearing that reasonable grounds for the storage are
8 not established.

9 (d) The registered owner or his or her agent is responsible for
10 all towing and storage charges related to the impoundment, and
11 any administrative charges authorized under Section 22850.5.

12 (e) A vehicle removed and seized under subdivision (a) shall be
13 released to the legal owner of the vehicle or the legal owner's agent
14 prior to the end of the impoundment period and without the
15 permission of the magistrate authorizing the seizure of the vehicle
16 if all of the following conditions are met:

17 (1) The legal owner is a motor vehicle dealer, bank, credit
18 union, acceptance corporation, or other licensed financial
19 institution legally operating in this state or is another person, not
20 the registered owner, holding a financial interest in the vehicle.

21 (2) The legal owner or the legal owner's agent pays all towing
22 and storage fees related to the seizure of the vehicle. No lien sale
23 processing fees shall be charged to the legal owner who redeems
24 the vehicle prior to the 15th day of impoundment. Neither the
25 impounding authority nor any person having possession of the
26 vehicle shall collect from the legal owner of the type specified in
27 paragraph (1); or the legal owner's agent any administrative
28 charges imposed pursuant to Section 22850.5 unless the legal
29 owner voluntarily requested a poststorage hearing.

30 (3) The legal owner or the legal owner's agent presents either
31 lawful foreclosure documents or a certificate of repossession and
32 a security agreement or title showing proof of legal ownership for
33 the vehicle. Any documents presented may be originals,
34 photocopies, or facsimile copies, or may be transmitted
35 electronically. The impounding agency may require the agent of
36 the legal owner to produce a photocopy or facsimile copy of its
37 repossession agency license or registration issued pursuant to
38 Chapter 11 (commencing with Section 7500) of Division 3 of the
39 Business and Professions Code, or to demonstrate, to the
40 satisfaction of the impounding agency, that the agent is exempt

1 from licensure pursuant to Section 7500.2 or 7500.3 of the
2 Business and Professions Code.

3 No administrative costs authorized under subdivision (a) of
4 Section 22850.5 shall be charged to the legal owner of the type
5 specified in paragraph (1), who redeems the vehicle unless the
6 legal owner voluntarily requests a poststorage hearing. No city,
7 county, city and county, or state agency shall require a legal owner
8 or a legal owner's agent to request a poststorage hearing as a
9 requirement for release of the vehicle to the legal owner or the
10 legal owner's agent. The impounding agency shall not require any
11 documents other than those specified in this paragraph.

12 As used in this paragraph, "foreclosure documents" means an
13 "assignment" as that term is defined in subdivision (o) of Section
14 7500.1 of the Business and Professions Code.

15 (f) (1) A legal owner or the legal owner's agent that obtains
16 release of the vehicle pursuant to subdivision (e) shall not release
17 the vehicle to the registered owner of the vehicle or any agents of
18 the registered owner, unless a registered owner is a rental car
19 agency, until the termination of the impoundment period.

20 (2) The legal owner or the legal owner's agent shall not
21 relinquish the vehicle to the registered owner until the registered
22 owner or that owner's agent presents his or her valid driver's
23 license or valid temporary driver's license to the legal owner or the
24 legal owner's agent. The legal owner or the legal owner's agent
25 shall make every reasonable effort to ensure that the license
26 presented is valid.

27 (3) Prior to relinquishing the vehicle, the legal owner may
28 require the registered owner to pay all towing and storage charges
29 related to the impoundment and the administrative charges
30 authorized under Section 22850.5 that were incurred by the legal
31 owner in connection with obtaining the custody of the vehicle.

32 (g) (1) A vehicle impounded and seized under subdivision (a)
33 shall be released to a rental car agency prior to the end of the
34 impoundment period if the agency is either the legal owner or
35 registered owner of the vehicle and the agency pays all towing and
36 storage fees related to the seizure of the vehicle.

37 (2) The owner of a rental vehicle that was seized under this
38 section may continue to rent the vehicle upon recovery of the
39 vehicle. However, the rental car agency shall not rent another
40 vehicle to the driver who used the vehicle that was seized to evade

1 a police officer until 30 days after the date that the vehicle was
2 seized.

3 (3) The rental car agency may require the person to whom the
4 vehicle was rented and who evaded the peace officer to pay all
5 towing and storage charges related to the impoundment and any
6 administrative charges authorized under Section 22850.5 that
7 were incurred by the rental car agency in connection with
8 obtaining custody of the vehicle.

9 (h) Notwithstanding any other provision of this section, the
10 registered owner and not the legal owner shall remain responsible
11 for any towing and storage charges related to the impoundment
12 and the administrative charges authorized under Section 22850.5
13 and any parking fines, penalties, and administrative fees incurred
14 by the registered owner.

15 (i) (1) This section does not apply to vehicles abated under the
16 Abandoned Vehicle Abatement Program pursuant to Sections
17 22660 to 22668, inclusive, and Section 22710, or to vehicles
18 impounded for investigation pursuant to Section 22655, or to
19 vehicles removed from private property pursuant to Section
20 22658.

21 (2) This section does not apply to abandoned vehicles removed
22 pursuant to Section 22669 that are determined by the public
23 agency to have an estimated value of three hundred dollars (\$300)
24 or less.

25 (j) The impounding agency shall not be liable to the registered
26 owner for the improper release of the vehicle to the legal owner or
27 the legal owner's agent provided the release complies with the
28 provisions of this section.

29 SEC. 221. Section 15302 of the Vehicle Code is amended to
30 read:

31 15302. No driver of a commercial motor vehicle may operate
32 a commercial motor vehicle for the rest of his or her life if
33 convicted of more than one violation of any of the following:

34 (a) Driving a commercial motor vehicle while under the
35 influence of alcohol or a controlled substance.

36 (b) Leaving the scene of an accident involving a commercial
37 motor vehicle operated by the driver.

38 (c) Using a commercial motor vehicle in the commission of
39 more than one felony arising out of separate occasions of arrest or
40 citation.



(d) Driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle or when the driver is disqualified from operating a commercial motor vehicle based on the driver's operation of a commercial motor vehicle.

(e) Causing a fatality involving conduct defined pursuant to subparagraph (E) of paragraph (1) of subsection (c) of Title 49 of Section 31310 of the United States Code.

(f) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

~~(e)~~

(g) Any combination of the above violations.

SEC. 222. Section 15620 of the Vehicle Code is amended to read:

15620. (a) A parent, legal guardian, or other person responsible for a child who is 6 years of age or younger may not leave that child inside a motor vehicle without being subject to the supervision of a person who is 12 years of age or older, under either of the following circumstances:

(1) Where there are conditions that present a significant risk to the child's health or safety.

(2) When the ~~vehicles's~~ *vehicle's* engine is running or the vehicle's keys are in the ignition, or both.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a community education program that includes education on the dangers of leaving young children unattended in motor vehicles, and provides certification of completion of that program. Upon completion of that program, the defendant shall provide that certification to the court. The court may, at its discretion, require any defendant described in this section to attend an education program on the dangers of leaving young children unattended in motor vehicles.

(c) Nothing in this section shall preclude prosecution under both this section and Section 192 of the Penal Code, or Section 273a of that code, or any other provision of law.

(d) (1) Subdivision (b) and Section 40000.1 do not apply if an unattended child is injured or medical services are rendered on that child because of a violation described in subdivision (a).

(2) Nothing in this subdivision precludes prosecution under any other provision of law.

SEC. 223. Section 23580 of the Vehicle Code is amended to read:

23580. (a) If any person is convicted of a violation of Section 23152 or 23153 and the offense was a second or subsequent offense punishable under Section 23540, 23546, 23550, 23550.5, 23560, or 23566, the court shall require that any term of imprisonment that is imposed include at least one period of not less than 48 consecutive hours of imprisonment or, in the alternative and notwithstanding Section 4024.2 of the Penal Code, that the person serve not less than 10 days of community service.

(b) Notwithstanding any other provision of law, except Section 2900.5 of the Penal Code, unless the court expressly finds in the circumstances that the punishment inflicted would be cruel or unusual punishment prohibited by Section 17 of Article I of the California Constitution, no court or person to whom a person is remanded for execution of sentence shall release, or permit the release of, a person from the requirements of subdivision (a), including, but not limited to, any work-release program, weekend service of sentence program, diversion or treatment program, or otherwise.

(c) For the purposes of this section, “imprisonment” means confinement in a jail, in a minimum security facility, or in an inpatient rehabilitation facility, as provided in Part 1309 (commencing with Section 1309.1) of Title 23 of the Code of Federal Regulations.

~~(d) This section shall become operative only if, and upon the date of the certification by, the Department of Motor Vehicles to the Secretary of State that California has submitted a completed application for federal Title 408 grant programs funds pursuant to that Part 1309.~~

SEC. 224. Section 10013 of the Water Code is amended to read:

10013. ~~(a)~~ The department, as a part of the preparation of the department’s Bulletin 160-03, shall include in the California Water Plan a report on the development of regional and local water

1 projects within each hydrologic region of the state, as described in
2 the department's Bulletin 160-98, to improve water supplies to
3 meet municipal, agricultural, and environmental water needs and
4 minimize the need to import water from other hydrologic regions.
5 The report shall include, but is not limited to, regional and local
6 water projects that use technologies for desalting brackish
7 groundwater and ocean water, reclaiming water for use within the
8 community generating the water to be reclaimed, the construction
9 of improved potable water treatment facilities so that water from
10 sources determined to be unsuitable can be used, and the
11 construction of dual water systems and brine lines, particularly in
12 connection with new developments and when replacing water
13 piping in developed or redeveloped areas.

14 SEC. 225. Section 10610.2 of the Water Code is amended to
15 read:

16 10610.2. (a) The Legislature finds and declares all of the
17 following:

18 ~~(a)~~

19 (1) The waters of the state are a limited and renewable resource
20 subject to ever-increasing demands.

21 ~~(b)~~

22 (2) The conservation and efficient use of urban water supplies
23 are of statewide concern; however, the planning for that use and
24 the implementation of those plans can best be accomplished at the
25 local level.

26 ~~(c)~~

27 (3) A long-term, reliable supply of water is essential to protect
28 the productivity of California's businesses and economic climate.

29 ~~(d)~~

30 (4) As part of its long-range planning activities, every urban
31 water supplier should make every effort to ensure the appropriate
32 level of reliability in its water service sufficient to meet the needs
33 of its various categories of customers during normal, dry, and
34 multiple dry water years.

35 ~~(e)~~

36 (5) Public health issues have been raised over a number of
37 contaminants that have been identified in certain local and
38 imported water supplies.

39 ~~(f)~~



(6) Implementing effective water management strategies, including groundwater storage projects and recycled water projects, may require specific water quality and salinity targets for meeting groundwater basins water quality objectives and promoting beneficial use of recycled water.

~~(g)~~

(7) Water quality regulations are becoming an increasingly important factor in water agencies' selection of raw water sources, treatment alternatives, and modifications to existing treatment facilities.

~~(h)~~

(8) Changes in drinking water quality standards may also impact the usefulness of water supplies and may ultimately impact supply reliability.

~~(i)~~

(9) The quality of source supplies can have a significant impact on water management strategies and supply reliability.

~~(2)~~

(b) This part is intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.

SEC. 226. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments described in subdivision (a). If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan:

1 (1) A copy of any groundwater management plan adopted by
2 the urban water supplier, including plans adopted pursuant to Part
3 2.75 (commencing with Section 10750), or any other specific
4 authorization for groundwater management.

5 (2) A description of any groundwater basin or basins from
6 which the urban water supplier pumps groundwater. For those
7 basins for which a court or the board has adjudicated the rights to
8 pump groundwater, a copy of the order or decree adopted by the
9 court or the board and a description of the amount of groundwater
10 the urban water supplier has the legal right to pump under the order
11 or decree. For basins that have not been adjudicated, information
12 as to whether the department has identified the basin or basins as
13 overdrafted or has projected that the basin will become
14 overdrafted if present management conditions continue, in the
15 most current official departmental bulletin that characterizes the
16 condition of the groundwater basin, and a detailed description of
17 the efforts being undertaken by the urban water supplier to
18 eliminate the long-term overdraft condition.

19 (3) A detailed description and analysis of the location, amount,
20 and sufficiency of groundwater pumped by the urban water
21 supplier for the past five years. The description and analysis shall
22 be based on information that is reasonably available, including,
23 but not limited to, historic use records.

24 (4) A detailed description and analysis of the amount and
25 location of groundwater that is projected to be pumped by the
26 urban water supplier. The description and analysis shall be based
27 on information that is reasonably available, including, but not
28 limited to, historic use records.

29 (c) Describe the reliability of the water supply and
30 vulnerability to seasonal or climatic shortage, to the extent
31 practicable, and provide data for each of the following:

32 (1) An average water year.

33 (2) A single dry water year.

34 (3) Multiple dry water years.

35 For any water source that may not be available at a consistent
36 level of use, given specific legal, environmental, water quality, or
37 climatic factors, describe plans to supplement or replace that
38 source with alternative sources or water demand management
39 measures, to the extent practicable.

1 (d) Describe the opportunities for exchanges or transfers of
2 water on a short-term or long-term basis.

3 (e) (1) Quantify, to the extent records are available, past and
4 current water use, over the same five-year increments described in
5 subdivision (a), and projected water use, identifying the uses
6 among water use sectors, including, but not necessarily limited to,
7 all of the following uses:

8 (A) Single-family residential.

9 (B) Multifamily.

10 (C) Commercial.

11 (D) Industrial.

12 (E) Institutional and governmental.

13 (F) Landscape.

14 (G) Sales to other agencies.

15 (H) Saline water intrusion barriers, groundwater recharge, or
16 conjunctive use, or any combination thereof.

17 (I) Agricultural.

18 (2) The water use projections shall be in the same five-year
19 increments described in subdivision (a).

20 (f) Provide a description of the supplier's water demand
21 management measures. This description shall include all of the
22 following:

23 (1) A description of each water demand management measure
24 that is currently being implemented, or scheduled for
25 implementation, including the steps necessary to implement any
26 proposed measures, including, but not limited to, all of the
27 following:

28 (A) Water survey programs for single-family residential and
29 multifamily residential customers.

30 (B) Residential plumbing retrofit.

31 (C) System water audits, leak detection, and repair.

32 (D) Metering with commodity rates for all new connections
33 and retrofit of existing connections.

34 (E) Large landscape conservation programs and incentives.

35 (F) High-efficiency washing machine rebate programs.

36 (G) Public information programs.

37 (H) School education programs.

38 (I) Conservation programs for commercial, industrial, and
39 institutional accounts.

40 (J) Wholesale agency programs.

1 (K) Conservation pricing.

2 (L) Water conservation coordinator.

3 (M) Water waste prohibition.

4 (N) Residential ultra-low-flush toilet replacement programs.

5 (2) A schedule of implementation for all water demand
6 management measures proposed or described in the plan.

7 (3) A description of the methods, if any, that the supplier will
8 use to evaluate the effectiveness of water demand management
9 measures implemented or described under the plan.

10 (4) An estimate, if available, of existing conservation savings
11 on water use within the supplier's service area, and the effect of the
12 savings on the supplier's ability to further reduce demand.

13 (g) An evaluation of each water demand management measure
14 listed in paragraph (1) of subdivision (f) that is not currently being
15 implemented or scheduled for implementation. In the course of the
16 evaluation, first consideration shall be given to water demand
17 management measures, or combination of measures, that offer
18 lower incremental costs than expanded or additional water
19 supplies. This evaluation shall do all of the following:

20 (1) Take into account economic and noneconomic factors,
21 including environmental, social, health, customer impact, and
22 technological factors.

23 (2) Include a cost-benefit analysis, identifying total benefits
24 and total costs.

25 (3) Include a description of funding available to implement any
26 planned water supply project that would provide water at a higher
27 unit cost.

28 (4) Include a description of the water supplier's legal authority
29 to implement the measure and efforts to work with other relevant
30 agencies to ensure the implementation of the measure and to share
31 the cost of implementation.

32 (h) Include a description of all water supply projects and water
33 supply programs that may be undertaken by the urban water
34 supplier to meet the total projected water use as established
35 pursuant to subdivision (a) of Section 10635. The urban water
36 supplier shall include a detailed description of expected future
37 projects and programs, other than the demand management
38 programs identified pursuant to paragraph (1) of subdivision (f),
39 that the urban water supplier may implement to increase the
40 amount of the water supply available to the urban water supplier

1 in average, single-dry, and multiple-dry water years. The
2 description shall identify specific projects and include a
3 description of the increase in water supply that is expected to be
4 available from each project. The description shall include an
5 estimate with regard to the implementation timeline for each
6 project or program.

7 (i) Urban water suppliers that are members of the California
8 Urban Water Conservation Council and submit annual reports to
9 that council in accordance with the “Memorandum of
10 Understanding Regarding Urban Water Conservation in
11 California,” dated September 1991, may submit the annual reports
12 identifying water demand management measures currently being
13 implemented, or scheduled for implementation, to satisfy the
14 requirements of subdivisions (f) and (g).

15 SEC. 227. Section 11912 of the Water Code is amended to
16 read:

17 11912. The department, in fixing and establishing prices,
18 rates, and charges for water and power, shall include as a
19 reimbursable cost of any state water project an amount sufficient
20 to repay all costs incurred by the department, directly or by
21 contract with other agencies, for the preservation of fish and
22 wildlife and determined to be allocable to the costs of the project
23 works constructed for the development of ~~such~~ *that* water and
24 power, or either. Costs incurred for the enhancement of fish and
25 wildlife or for the development of public recreation shall not be
26 included in the prices, rates, and charges for water and power, and
27 shall be nonreimbursable costs.

28 SEC. 228. Section 13627.4 of the Water Code is amended to
29 read:

30 13627.4. (a) The civil liability described in Section 13627.1,
31 13627.2, or 13627.3 may be administratively imposed in
32 accordance with Article 2.5 (commencing with Section 13323) of
33 Chapter 5, except that the executive director shall issue the
34 complaint with review by the state board.

35 (b) A remedy under this chapter is in addition to, and does not
36 supersede or limit, *any* other remedy, civil or criminal, except that
37 no liability is recoverable against an operator under subdivision (c)
38 of Section 13627.1 for a violation for which liability is recovered
39 against the operator under Section 13350 or 13385.

1 SEC. 229. Section 213.5 of the Welfare and Institutions Code
2 is amended to read:

3 213.5. (a) After a petition has been filed pursuant to Section
4 311 to declare a child a dependent child of the juvenile court, and
5 until the time that the petition is dismissed or dependency is
6 terminated, upon application in the manner provided by Section
7 527 of the Code of Civil Procedure, the juvenile court may issue
8 ex parte orders (1) enjoining any person from molesting, attacking,
9 striking, sexually assaulting, stalking, or battering the child or any
10 other child in the household; (2) excluding any person from the
11 dwelling of the person who has care, custody, and control of the
12 child; and (3) enjoining any person from behavior, including
13 contacting, threatening, or disturbing the peace of the child, that
14 the court determines is necessary to effectuate orders under
15 paragraph (1) or (2). A court issuing an ex parte order pursuant to
16 this subdivision may simultaneously issue an ex parte order
17 enjoining any person from contacting, threatening, molesting,
18 attacking, striking, sexually assaulting, stalking, battering, or
19 disturbing the peace of any parent, legal guardian, or current
20 caretaker of the child, regardless of whether the child resides with
21 that parent, legal guardian, or current caretaker, upon application
22 in the manner provided by Section 527 of the Code of Civil
23 Procedure.

24 (b) After a petition has been filed pursuant to Section 601 or
25 602 to declare a child a ward of the juvenile court, and until the
26 time that the petition is dismissed or wardship is terminated, upon
27 application in the manner provided by Section 527 of the Code of
28 Civil Procedure, the juvenile court may issue ex parte orders (1)
29 enjoining any person from molesting, attacking, threatening,
30 sexually assaulting, stalking, or battering the child; (2) excluding
31 any person from the dwelling of the person who has care, custody,
32 and control of the child; or (3) enjoining the child from contacting,
33 threatening, stalking, or disturbing the peace of any person the
34 court finds to be at risk from the conduct of the child, or with whom
35 association would be detrimental to the child.

36 (c) In the case in which a temporary restraining order is granted
37 without notice, the matter shall be made returnable on an order
38 requiring cause to be shown why the order should not be granted,
39 on the earliest day that the business of the court will permit, but not
40 later than 15 days or, if good cause appears to the court, 20 days

1 from the date the temporary restraining order is granted. The court
2 may, on the motion of the person seeking the restraining order, or
3 on its own motion, shorten the time for service on the person to be
4 restrained of the order to show cause. Any hearing pursuant to this
5 section may be held simultaneously with any regularly scheduled
6 hearings held in proceedings to declare a child a dependent child
7 or ward of the juvenile court pursuant to Section 300, 601, or 602,
8 or subsequent hearings regarding the dependent child or ward.

9 (d) The juvenile court may issue, upon notice and a hearing,
10 any of the orders set forth in subdivisions (a), (b), and (c). Any
11 restraining order granted pursuant to this subdivision shall remain
12 in effect, in the discretion of the court, not to exceed three years,
13 unless otherwise terminated by the court, extended by mutual
14 consent of all parties to the restraining order, or extended by
15 further order of the court on the motion of any party to the
16 restraining order.

17 (e) (1) The juvenile court may issue an order made pursuant to
18 subdivision (a), (c), or (d) excluding a person from a residence or
19 dwelling. This order may be issued for the time and on the
20 conditions that the court determines, regardless of which party
21 holds legal or equitable title or is the lessee of the residence or
22 dwelling.

23 (2) The court may issue an order under paragraph (1) only on
24 a showing of all of the following:

25 (A) Facts sufficient for the court to ascertain that the party who
26 will stay in the dwelling has a right under color of law to possession
27 of the premises.

28 (B) That the party to be excluded has assaulted or threatens to
29 assault the other party or any other person under the care, custody,
30 and control of the other party, or any minor child of the parties or
31 of the other party.

32 (C) That physical or emotional harm would otherwise result to
33 the other party, to any person under the care, custody, and control
34 of the other party, or to any minor child of the parties or of the other
35 party.

36 (f) Any order issued pursuant to subdivision (a), (b), (c), or (d)
37 shall state on its face the date of expiration of the order.

38 (g) The juvenile court shall order any designated person or
39 attorney to mail a copy of any order, or extension, modification,
40 or termination thereof, granted pursuant to subdivision (a), (b), (c),

1 or (d), by the close of the business day on which the order,
2 extension, modification, or termination was granted, and any
3 subsequent proof of service thereof, to each local law enforcement
4 agency designated by the person seeking the restraining order or
5 his or her attorney having jurisdiction over the residence of the
6 person who has care, custody, and control of the child and other
7 locations where the court determines that acts of domestic violence
8 or abuse against the child or children are likely to occur. Each
9 appropriate law enforcement agency shall make available through
10 an existing system for verification, information as to the existence,
11 terms, and current status of any order issued pursuant to
12 subdivision (a), (b), (c), or (d) to any law enforcement officer
13 responding to the scene of reported domestic violence or abuse.

14 (h) Any willful and knowing violation of any order granted
15 pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor
16 punishable under Section 273.65 of the Penal Code.

17 (i) A juvenile court restraining order related to domestic
18 violence issued by a court pursuant to this section shall be issued
19 on forms adopted by the Judicial Council of California and that
20 have been approved by the Department of Justice pursuant to
21 subdivision (i) of Section 6380 of the Family Code. However, the
22 fact that an order issued by a court pursuant to this section was not
23 issued on forms adopted by the Judicial Council and approved by
24 the Department of Justice shall not, in and of itself, make the order
25 unenforceable.

26 (j) Information on any juvenile court restraining order related
27 to domestic violence issued by a court pursuant to this section shall
28 be transmitted to the Department of Justice in accordance with
29 subdivision (b) of Section 6380 of the Family Code.

30 (k) (1) Prior to a hearing on the issuance or denial of an order
31 under this part, a search shall be conducted as described in
32 subdivision (a) of Section 6306 of the Family Code.

33 (2) Prior to deciding whether to issue an order under this part,
34 the court shall consider the following information obtained
35 pursuant to a search conducted under paragraph (1): any
36 conviction for a violent felony specified in Section 667.5 of the
37 Penal Code or a serious felony specified in Section 1192.7 of the
38 Penal Code; any misdemeanor conviction involving domestic
39 violence, weapons, or other violence; any outstanding warrant;

1 parole or probation status; any prior restraining order; and any
2 violation of a prior restraining order.

3 (3) (A) If the results of the search conducted pursuant to
4 paragraph (1) indicate that an outstanding warrant exists against
5 the subject of the search, the court shall order the clerk of the court
6 to immediately notify, by the most effective means available,
7 appropriate law enforcement officials of any information obtained
8 through the search that the court determines is appropriate. The
9 law enforcement officials so notified shall take all actions
10 necessary to execute any outstanding warrants or any other
11 actions, as appropriate and as soon as practicable.

12 (B) If the results of the search conducted pursuant to paragraph
13 (1) indicate that the subject of the search is currently on parole or
14 probation, the court shall order the clerk of the court to
15 immediately notify, by the most effective means available, the
16 appropriate parole or probation officer of any information
17 obtained through the search that the court determines is
18 appropriate. The parole or probation officer so notified shall take
19 all actions necessary to revoke any parole or probation, or any
20 other actions, with respect to the subject person, as appropriate and
21 as soon as practicable.

22 SEC. 230. Section 727.4 of the Welfare and Institutions Code
23 is amended to read:

24 727.4. (a) Notice of any hearing pursuant to Section 727,
25 727.2, or 727.3 shall be mailed by the probation officer to the
26 minor, the minor's parent or guardian, any adult provider of care
27 to the minor including, but not limited to, foster parents, relative
28 caregivers, preadoptive parents, community care facility, or foster
29 family agency and to the counsel of record if the counsel of record
30 was not present at the time that the hearing was set by the court,
31 by first-class mail addressed to the last known address of the
32 person to be notified, or shall be personally served on those
33 persons, not earlier than 30 days nor later than 15 days preceding
34 the date of the hearing. The notice shall contain a statement
35 regarding the nature of the status review or permanency planning
36 hearing and any change in the custody or status of the minor being
37 recommended by the probation department. The notice shall also
38 include a statement informing the foster parents, relative
39 caregivers, or preadoptive parents that he or she may attend all
40 hearings or may submit any information he or she deems relevant

1 to the court in writing. The foster parents, relative caregiver, and
2 preadoptive parents are entitled to notice and opportunity to be
3 heard but need not be made parties to the proceedings. Proof of
4 notice shall be filed with the court.

5 (b) At least 10 calendar days prior to each status review and
6 permanency planning hearing, after the hearing during which the
7 court orders that the care, custody and control of the minor to be
8 under the supervision of the probation officer for placement
9 pursuant to subdivision (a) of Section 727, the probation officer
10 shall file a social study report with the court, pursuant to the
11 requirements listed in Section 706.5.

12 (c) The probation department shall inform the minor, the
13 minor's parent or guardian, and all counsel of record that a copy
14 of the social study prepared for the hearing will be available 10
15 days prior to the hearing and may be obtained from the probation
16 officer.

17 (d) As used in Article 15 (commencing with Section 625) to
18 Article 18 (commencing with Section 725), inclusive:

19 (1) "Foster care" means residential care provided in any of the
20 settings described in Section 11402.

21 (2) "At risk of entering foster care" means that conditions
22 within a minor's family may necessitate his or her entry into foster
23 care unless those conditions are resolved.

24 (3) "Preadoptive parent" means a licensed foster parent who
25 has been approved for adoption by the State Department of Social
26 Services when it is acting as an adoption agency or by a licensed
27 adoption agency.

28 (4) "Date of entry into foster care" means the date that is 60
29 days after the date on which the minor was removed from his or
30 her home, unless one of the exceptions below applies:

31 (A) If the minor is detained pending foster care placement, and
32 remains detained for more than 60 days, then the date of entry into
33 foster care means the date the court adjudges the minor a ward and
34 orders the minor placed in foster care under the supervision of the
35 probation officer.

36 (B) If, before the minor is placed in foster care, the minor is
37 committed to a ranch, camp, school, or other institution pending
38 placement, and remains in that facility for more than 60 days, then
39 the "date of entry into foster care" is the date the minor is
40 physically placed in foster care.

(C) If at the time the wardship petition was filed, the minor was a dependent of the juvenile court and in out-of-home placement, then the “date of entry into foster care” is the earlier of the date the juvenile court made a finding of abuse or neglect, or 60 days after the date on which the child was removed from his or her home.

(5) “Reasonable efforts” means:

(A) Efforts made to prevent or eliminate the need for removing the minor from the minor’s home;

(B) Efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services; and

(C) Efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

(6) “Relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” “grand,” or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

(7) “Hearing” means a noticed proceeding with findings and orders that are made on a case-by-case basis, heard by either of the following:

(A) A judicial officer, in a courtroom, recorded by a court reporter.

(B) An administrative panel, provided that the hearing is a status review hearing and that the administrative panel meets the following conditions:

(i) The administrative review shall be open to participation by the minor and parents or legal guardians and all those persons entitled to notice under subdivision (a) ~~of Section 727.4.~~

(ii) The minor and his or her parents or legal guardians receive proper notice as required in subdivision (a) ~~of Section 727.4.~~

(iii) The administrative review panel is composed of persons appointed by the presiding judge of the juvenile court, the membership of which shall include at least one person who is not responsible for the case management of, or delivery of services to, the minor or the parents who are ~~subject~~ *the subjects* of the review.

1 (iv) The findings of the administrative review panel shall be
2 submitted to the juvenile court for the court's approval and shall
3 become part of the official court record.

4 SEC. 231. Section 903.5 of the Welfare and Institutions Code
5 is amended to read:

6 903.5. In addition to the requirements of Section 903.4, and
7 notwithstanding any other provision of law, the parent or other
8 person legally liable for the support of a minor, who voluntarily
9 places the minor in 24-hour out-of-home care, shall be liable for
10 the cost of the minor's care, support, and maintenance when the
11 minor receives Aid to Families with Dependent Children-Foster
12 Care (AFDC-FC), Supplemental Security Income-State
13 Supplementary Program (SSI-SSP), or county-only funds. As
14 used in this section, "parent" includes any person specified in
15 Section 903. Whenever the county welfare department or the
16 placing agency determines that a court order would be advisable
17 and effective, the department or the agency shall notify the local
18 child support agency, or the financial evaluation officer designated
19 pursuant to Section 903.45, who shall proceed pursuant to Section
20 903.4 or 903.45.

21 SEC. 232. Section 9320 of the Welfare and Institutions Code
22 is amended to read:

23 9320. (a) The department shall establish a task force to study
24 and make recommendations, including action steps and timelines,
25 on the improvement of legal services delivery to senior citizens in
26 California by exploring the following matters:

27 (1) Actions to ensure that all area agencies on aging allocate
28 sufficient funding to local legal assistance providers. Actions may
29 include, but not be limited to, the establishment of a minimum
30 percentage of area agency on aging funding for legal assistance
31 providers in California.

32 (2) Ways to ensure uniformity in the provision of legal services
33 throughout the state, including, but not limited to, possible
34 development of uniform statewide standards for the delivery of
35 legal services in California.

36 (3) Measures to evaluate and monitor local legal assistance
37 programs to ensure compliance with the federal Older Americans
38 Act and its implementing regulations.

1 (4) Establishment of statewide reporting system to assess the
2 effectiveness of *a* legal assistance ~~programs~~ *program* for seniors
3 in the state.

4 (5) The possible establishment of a statewide legal hotline for
5 seniors.

6 (6) Opportunities to enhance communications among the
7 various service providers and to ensure efficient service delivery
8 involving local programs and a statewide hotline, should it come
9 into existence.

10 (7) Opportunities for joint training for senior legal services
11 advocates around the state.

12 (8) Other states' legal services delivery networks.

13 (b) The director shall serve on or appoint a representative to the
14 task force, and shall appoint the following additional members:

15 (1) One member of the Legislature or his or her representative.

16 (2) Three legal ~~services~~ *service* director representatives of
17 existing legal service programs for seniors.

18 (3) The Legal Services Developer at the California Department
19 of Aging.

20 (4) Two area agency on aging directors.

21 (5) Two representatives of senior advocacy organizations.

22 (6) A representative of the State Bar of California.

23 (c) The Member of the Legislature, or his or her representative,
24 shall serve on the task force to the extent that the service is
25 compatible with the duties of a Member of the Legislature.

26 ~~(e)~~

27 (d) The task force shall report and make its recommendations
28 to the Legislature on or before September 1, 2002.

29 SEC. 233. Section 9681 of the Welfare and Institutions Code
30 is amended to read:

31 9681. (a) Funding of projects pursuant to this article shall be
32 subject to the appropriation of funds by the Legislature in the
33 Budget Act or another statute.

34 (b) ~~Funds—appropriation~~ *Appropriations* made pursuant to
35 subdivision (a) shall be expended to fund grants to eligible local
36 public agencies or nonprofit organizations in an amount not to
37 exceed one hundred fifty thousand dollars (\$150,000) each.

38 SEC. 234. Section 11203 of the Welfare and Institutions Code
39 is amended to read:

11203. (a) During those times as the federal government provides funds for the care of a needy relative with whom a needy child or needy children are living, aid to the child or children for any month includes aid to meet the needs of that relative, if money payments are made with respect to the child or children for that month, and if the relative is not receiving aid under ~~Chapters~~ *Chapter 3* (commencing with Section 12000) or 5 (commencing with Section 13000) of this part or Part A of Title XVI of the Social Security Act for that month. Needy relatives under this chapter include only natural or adoptive parents, the spouse of a natural or adoptive parent, and other needy caretaker relatives.

(b) (1) The parent or parents shall be considered living with the needy child or needy children for a period of up to 180 consecutive days of the needy child's or children's absence from the family assistance unit and the parent or parents shall be eligible for services under this chapter including services funded under Sections 15204.2 and 15204.8 if all of the following conditions are met:

(A) The child has been removed from the parent or parents and placed in out-of-home care.

(B) When the child was removed from the parent or parents, the family was receiving aid under this section.

(C) The county has determined that the provision of services under this chapter including services funded under Sections 15204.2 and 15204.8, is necessary for reunification.

(2) For purposes of this subdivision, the parent or parents shall not be eligible for any payment of aid under Section 11450.

(c) The department shall revise its state Temporary Assistance for Needy Families plan to incorporate the provisions of subdivision (b) and to incorporate the good cause exception provisions authorized by paragraph (10) of subsection (a) of Section 608 of Title 42 of the United States Code with respect to cases where reunification occurs after 180 consecutive days from the date of the removal of the child or children from the home.

SEC. 235. Section 14087.961 of the Welfare and Institutions Code is amended to read:

14087.961. Governance of the commission shall be vested in a governing body consisting of 13 members, each of whom shall have a fiduciary duty to act in the best interest of the commission

1 and the local initiative, nominated by the following entities, and
2 appointed by the board of supervisors:

3 (a) Four members shall be nominated by the board of
4 supervisors to represent the County of Los Angeles. No more than
5 one member nominated by the board of supervisors shall be a
6 member of the board of supervisors and each remaining member
7 nominated by the board of supervisors shall possess experience as
8 a health care administrator or as a health care provider.

9 (b) One member shall be a representative of private hospitals
10 that have Medi-Cal disproportionate share status, or if that status
11 no longer exists, that serve an equivalent patient population, who
12 shall be nominated by the Hospital Council of Southern California.

13 (c) One member shall be a representative of private hospitals
14 that do not have Medi-Cal disproportionate share status, who shall
15 be nominated by the Hospital Council of Southern California.

16 (d) One member shall be a representative of free and
17 community clinics, who shall be nominated by an entity or group
18 recognized by the board of supervisors as representing free and
19 community ~~clients~~ clinics.

20 (e) One member shall be a representative of federally qualified
21 health centers, who shall be nominated by an entity or group
22 recognized by the board of supervisors as representing federally
23 qualified health centers, or if that status no longer exists, an
24 equivalent group of health centers.

25 (f) One member shall be a physician representative, who shall
26 be nominated by the Los Angeles County Medical Association, in
27 consultation with other physician associations within the county.

28 (g) One member shall be a representative of Knox–Keene
29 licensed prepaid health plans, who shall be nominated by the
30 California Association of Health Plans.

31 (h) One member shall represent health care consumers, and at
32 the time of being nominated, shall be a health care consumer. The
33 initial nominee shall be nominated by the working group on the
34 role of the consumer for the first nominee, and thereafter, by a
35 process determined by the community advisory committee under
36 which only health care consumers may nominate and vote for
37 appointees.

38 (i) One member shall be a health care consumer advocate, who
39 shall represent health care consumers. The initial nominee shall be
40 nominated by the working group on the role of the consumer for

1 the first nominee, and thereafter, by a process determined by the
2 community advisory committee under which only health care
3 consumers may nominate and vote for appointees.

4 (j) One member shall be a children's health care provider
5 representative, who shall be nominated by the Children's Planning
6 Council as the coordinating entity for organizations and agencies
7 providing direct services to, or advocacy for, children and families
8 within the county.

9 SEC. 236. Section 14103.5 of the Welfare and Institutions
10 Code is amended to read:

11 14103.5. (a) A noncontract hospital that is in a closed health
12 facility planning area is not eligible to receive reimbursement for
13 services provided ~~in to a Medi-Cal~~ Medi-Cal beneficiary, unless the
14 noncontract hospital provides necessary emergency services to a
15 Medi-Cal beneficiary who is in a life threatening or emergency
16 situation, but cannot be sufficiently stabilized in order to facilitate
17 transport to a contracting hospital.

18 (b) A noncontract hospital in a closed health facility planning
19 area that provides necessary emergency services to a Medi-Cal
20 beneficiary who is in a life threatening or emergency situation, but
21 cannot be sufficiently stabilized in order to facilitate transport to
22 a contracting hospital, may only be reimbursed for those necessary
23 emergency services when it obtains an approved treatment
24 authorization request.

25 (c) Any treatment authorization request submitted for any
26 service classified as a necessary emergency service, which would
27 have been subject to prior authorization had it not been so
28 classified, shall be supported by the attending physician's
29 statement that does all of the following:

30 (1) Describes in detail the nature of the emergency or life
31 threatening situation, including relevant clinical information
32 about the patient's condition.

33 (2) States why the patient could not be sufficiently stabilized
34 for transport to a contracting hospital and why the necessary
35 emergency services rendered were considered to be immediately
36 required. A mere statement that an emergency existed is not
37 sufficient. The treatment authorization request shall be
38 comprehensive enough to support a finding that an emergency or
39 a life threatening situation existed.

1 (3) Contains the signature of the attending physician who had
2 direct knowledge of the emergency described in the statement.

3 (d) For the purposes of this section, “necessary emergency
4 services” are limited to those health services medically necessary
5 for alleviation of severe pain or immediate diagnosis and treatment
6 of unforeseen medical conditions which, if not immediately
7 diagnosed and treated, could lead to significant disability or death.

8 (e) For the purposes of this section, a “noncontract hospital”
9 means a hospital that has not contracted with the department
10 pursuant to Article 2.6 (commencing with Section 14081) for the
11 provision of inpatient services to Medi-Cal beneficiaries.

12 (f) Nothing in this section shall be construed as limiting
13 reimbursement for medically necessary care following
14 stabilization, in the event that a contract hospital does not accept
15 transfer of the patient or pending the transfer to a contract hospital.

16 SEC. 237. Section 14132.99 of the Welfare and Institutions
17 Code is amended to read:

18 14132.99. For services provided pursuant to Chapter 7
19 (commencing with Section 14000) ~~of Division 9 of Part 3 of~~
20 ~~Division 9, Section 14499.5, or Chapters 1 to 4, inclusive, Chapter~~
21 ~~1 (commencing with Section 101525) to Chapter 4 (commencing~~
22 ~~with Section 101825), inclusive, of Part 4 of Division 101 of the~~
23 ~~Health and Safety Code, the cost for services defined in Section~~
24 ~~1370.6 of the Health and Safety Code, and Sections 14132.98 and~~
25 ~~14087.11 and 14132.98 shall be provided by state only funds if~~
26 ~~federal financial participation is not available.~~

27 SEC. 238. Section 19000 of the Welfare and Institutions Code
28 is amended to read:

29 19000. (a) The Legislature finds and declares as follows:

30 (1) Work is a valuable and important activity, both for
31 individuals and society, and fulfills the need of an individual to be
32 productive, promotes independence, enhances self-esteem, and
33 allows for participation in the mainstream of life.

34 (2) Disability is a natural part of human experience and in no
35 way diminishes the capacity of individuals to live independently,
36 enjoy self-determination, make choices, contribute to society,
37 pursue meaningful careers, and enjoy inclusion and integration in
38 the economic, political, social, cultural, and educational
39 mainstream of society.

1 (3) As a group, individuals with disabilities experience
2 staggering levels of unemployment and poverty.

3 (4) Increased employment of, and independent living for,
4 individuals with disabilities can be achieved by providing
5 individualized training, independent living services, educational
6 and support services, and meaningful opportunities for
7 employment in integrated work settings with reasonable
8 accommodations.

9 (5) Individuals with disabilities, including individuals with the
10 most severe disabilities, have demonstrated their ability to achieve
11 gainful employment in integrated settings if appropriate services
12 and supports are provided.

13 (6) The provision of vocational rehabilitation services can
14 enable individuals with disabilities, including individuals with the
15 most severe disabilities, to pursue meaningful careers by securing
16 gainful employment commensurate with their abilities and
17 capabilities.

18 (b) The purpose of this division is to assist the Department of
19 Rehabilitation in operating comprehensive, coordinated,
20 effective, efficient, and accountable programs of vocational
21 rehabilitation and independent living that are designed to assess,
22 plan, develop, and provide services for individuals with
23 disabilities, particularly individuals with the most severe
24 disabilities, consistent with their strengths, resources, priorities,
25 concerns, abilities, and capabilities, so that these individuals may
26 prepare for and engage in gainful employment and live more
27 independently.

28 (c) The Department of Rehabilitation's vocational
29 rehabilitation and independent living programs shall be consistent
30 with the national policy toward people with disabilities articulated
31 in the Americans with Disabilities Act of 1990 (Public Law
32 101-336) and the Rehabilitation Act Amendments of 1998 (Public
33 Law 105-220).

34 (d) It shall be the goal of the Department of Rehabilitation to
35 provide individuals with disabilities with the tools necessary *to* do
36 all of the following:

37 (1) Make informed choices and decisions.

38 (2) Maximize employment, independence, and economic and
39 social self-sufficiency in the mainstream of society.

1 (3) Achieve equality of opportunity and inclusion and
2 integration into all aspects of society.

3 (e) The Department of Rehabilitation's vocational
4 rehabilitation and independent living programs, projects, and
5 activities shall be carried out in a manner consistent with the
6 following principles:

7 (1) Respect for individual dignity, personal responsibility,
8 self-determination, and pursuit of independent living and
9 meaningful careers, based on informed choice of individuals with
10 disabilities.

11 (2) Respect for the privacy, rights, and equal access of
12 individuals with disabilities, including, but not limited to, the use
13 of accessible formats.

14 (3) Individuals with disabilities, including individuals with the
15 most severe disabilities, shall be generally presumed to be capable
16 of engaging in gainful employment, and the provision of
17 individualized vocational rehabilitation services can improve their
18 ability to become gainfully employed.

19 (4) Promotion of independence, inclusion, integration, and full
20 participation of individuals with disabilities.

21 (5) Individuals with disabilities shall be provided the
22 opportunities to obtain competitive employment in integrated
23 settings.

24 (6) Individuals with disabilities shall be active participants in
25 their own rehabilitation programs, including, but not limited to,
26 making meaningful and informed choices about the selection of
27 their vocational goals and objectives and the vocational
28 rehabilitation services they receive.

29 (7) Support for the involvement of a parent, a family member,
30 a guardian, an advocate, or an authorized representative, if an
31 individual with a disability requests, desires, or needs that support.

32 (8) Individuals with disabilities and their advocates are full
33 partners in the vocational rehabilitation and independent living
34 programs and shall be involved on a regular basis and in a
35 meaningful manner with respect to policy development and
36 implementation.

37 (9) Qualified vocational rehabilitation counselors, and other
38 qualified personnel facilitate the accomplishment of the
39 employment and independent living goals and objectives of an
40 individual.



(10) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the department's programs, including providing vocational rehabilitation and independent living services to, among others, individuals with the most severe disabilities.

SEC. 239. Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read.

Sec. 5. The district is hereby declared to be a body corporate and politic and, in addition to other powers granted by this act, may take action to carry out all of the following purposes:

1. To have perpetual succession.
2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To adopt a seal and alter it at pleasure.
4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter, and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair, or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.
5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve reclaim, recycle, distribute, store, and manage water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside the district, water for any purpose useful to the district; and to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution of water for irrigation, domestic, fire protection, municipal, commercial, industrial, environmental, and all other beneficial uses; to distribute, sell, or otherwise dispose of, outside the district, any

1 waters not needed for beneficial uses within the district; to
2 commence, maintain, intervene in, defend, or compromise, in the
3 name of the district in behalf of the landowners therein, or
4 otherwise, and to assume the costs and expenses of any action or
5 proceeding involving or affecting the ownership or use of waters
6 or water rights within or outside the district, used or useful for any
7 purpose of the district or of common benefit to any land situated
8 therein, or involving the wasteful use of water therein; to
9 commence, maintain, intervene in, defend, and compromise and
10 to assume the cost and expenses of any and all actions and
11 proceedings now or hereafter begun; to prevent interference with
12 or diminution of, or to declare rights in the natural flow of any
13 stream or surface or subterranean supply of water used or useful
14 for any purpose of the district or of common benefit to the lands
15 within the district or to its inhabitants; to prevent unlawful
16 exportation of water from the district; to prevent contamination,
17 pollution, or otherwise rendering unfit for beneficial use the
18 surface ~~for~~ or subsurface water used or useful in the district, and
19 to commence, maintain, and defend actions and proceedings to
20 prevent any such interference with the described waters as may
21 endanger or damage the inhabitants, lands, or use of water in, or
22 flowing into, the district; provided, however, that the district shall
23 not have power to intervene or take part in, or to pay the costs or
24 expenses of, actions or controversies between the owners of lands
25 or water rights that do not affect the interests of the district.

26 6. To control the flood and storm waters of the district and the
27 flood and storm waters of streams that have their sources outside
28 of the district, but which streams and the floodwaters thereof, flow
29 into said district, and to conserve such waters for beneficial and
30 useful purposes of the district by spreading, storing, retaining, and
31 causing to percolate into the soil within or without the district, or
32 to save or conserve in any manner all or any of those waters and
33 protect from damage from those flood or storm waters the
34 watercourses, watersheds, public highways, life, and property in
35 the district, and the watercourses outside of the district of streams
36 flowing into the district.

37 7. To enter upon any land, to make surveys and locate the
38 necessary works of improvement and the lines for channels,
39 conduits, canals, pipelines, roadways, and other rights-of-way; to
40 acquire by purchase, lease, contract, gift, devise, or other legal



1 means all lands and water and water rights and other property
2 necessary or convenient for the construction, use, supply,
3 maintenance, repair, and improvement of the works, including
4 works constructed and being constructed by private owners, lands
5 for reservoirs for storage of necessary water, and all necessary
6 appurtenances, and also where necessary or convenient to that end,
7 and for those purposes and uses, to acquire and to hold in the name
8 of the state, the capital stock of any mutual water company or
9 corporation, domestic or foreign, owning water or water rights,
10 canals, waterworks, franchises, concessions, or rights, when the
11 ownership of such stock is necessary to secure a water supply
12 required by the district or any part thereof, upon the condition that
13 when holding such stock, the district shall be entitled to all the
14 rights, powers, and privileges, and shall be subject to all the
15 obligations and liabilities conferred or imposed by law upon other
16 holders of such stock in the same company; to cooperate with, act
17 in conjunction with, enter into and to do any acts necessary for the
18 proper performance of any agreement with the State of California,
19 or any of its engineers, officers, boards, commissions,
20 departments, or agencies, or with the government of the United
21 States, or any of its engineers, officers, boards, commissions,
22 departments, or agencies or with any state, city and county, city,
23 county, district of any kind, public or private corporation,
24 association, firm, or individual, or any number of them, for the
25 ownership, joint acquisition, leasing, disposition, use,
26 management, construction, installation, extension, maintenance,
27 repair, or operation of any rights, works, or other property of a kind
28 which might lawfully be acquired or owned by the district or for
29 the lawful performance of any power or purpose of the district
30 provided for in this act, including, but not limited to, the granting
31 of the right to the use of any water or the right to store that water
32 in any reservoir of the district or to carrying that water through any
33 tunnel, canal, ditch, or conduit of the district or for the delivery,
34 sale, or exchange of any water right, water supply, or water
35 pumped, stored, appropriated, or otherwise acquired or secured
36 for the use of the district, or for controlling drainage waters, or
37 flood or storm waters of streams in or running into the district, or
38 for the protection of life or property therein, or for the purpose of
39 conserving any waters for the beneficial use within the district, or
40 in any other works, uses, or purposes provided for in this act; and



1 to adopt and carry out any definite plan or system for
2 accomplishing, facilitating, or financing all work which may
3 lawfully be accomplished by the district and to enforce that plan
4 or system by resolution or ordinance.

5 8. To carry on technical and other necessary investigations,
6 make measurements, collect data, make analyses, studies, and
7 inspections pertaining to water supply, water rights, control of
8 flood and storm waters, and use of water both within and outside
9 the district relating to watercourses or streams flowing in or into
10 the district. For such purposes, the district shall have the right of
11 access through its authorized representatives to all properties
12 within the district and elsewhere relating to watercourses and
13 streams flowing in or into said district. The district, through its
14 authorized representatives, may enter upon such lands and make
15 examinations, surveys, and maps thereof.

16 9. To prescribe, revise, and collect fees and charges for
17 facilities furnished or to be furnished to any new building,
18 improvement, or structure by the use of any flood control or storm
19 drainage system constructed or to be constructed in a zone of the
20 district, and whenever a drainage or flood control problem is
21 referred to the district by the County of Santa Clara, or any
22 incorporated city therein, to require the installation of drainage or
23 flood control improvements necessary and/or convenient for
24 needs of the zone, including, but not limited to, residential,
25 subdivision, commercial, and industrial drainage and flood
26 control needs, ~~those~~ *that* county and *those* cities being hereby
27 authorized to refer all drainage and flood control problems, arising
28 under the Subdivision Map Act (Division 2 (commencing with
29 Section 66410) of Title 7 of the Government Code) or otherwise,
30 to the district for solution. Revenues derived under this section
31 shall be used for the acquisition, construction, reconstruction,
32 maintenance, and operation of the flood control or storm drainage
33 facilities of the that zone, to reduce the principal or interest of any
34 bonded indebtedness thereof, or to replace funds expended on
35 behalf of that zone derived from the fund created pursuant to
36 subdivision 1 of Section 13.

37 10. To incur indebtedness, and to issue bonds in accordance
38 with this act.

39 11. To cause taxes or assessments to be levied and collected
40 for the purpose of paying any obligation of the district, and to carry

1 out any of the purposes of this act, in the manner hereinafter
2 provided.

3 12. To make contracts, and to employ labor, and to do all acts
4 necessary for the full exercise of all powers vested in the district
5 or any of the officers thereof, by this act.

6 13. To have the power and right to disseminate information
7 concerning the rights, properties, activities, plans, and proposals
8 of the district; provided, however, that expenditures during any
9 fiscal year for those purposes shall not exceed one-half cent
10 (\$0.005) for each one hundred dollars (\$100) of assessed valuation
11 of such district.

12 14. To pay to any city, public agency, district, or educational
13 institution recognized under Chapter 3 (commencing with Section
14 94301) of Part 59 of the Education Code, a portion of the cost of
15 water imported by that city, public agency, district, or educational
16 institution into, for use within, and of benefit to the Santa Clara
17 Valley Water District.

18 15. To establish designated floodways in accordance with the
19 Cobey-Alquist Flood Plain Management Act (Chapter 4
20 (commencing with Section 8400) of Part 2 of Division 5 of the
21 Water Code).

22 16. To acquire, construct, maintain, operate, and install
23 landscaping or recreational facilities in connection with any dam,
24 reservoir, or other works owned or controlled by the district.

25 17. To acquire, construct, maintain, operate and install, lease,
26 and control facilities for the generation, transmission, distribution,
27 sale, exchange, and lease of electric power.

28 18. To require the sealing of abandoned or unused wells
29 according to standards adopted by the board by ordinance and
30 designed to protect the groundwater resources of the district from
31 contamination. Upon and following the effective date of the
32 ordinance, the County of Santa Clara or any incorporated city
33 therein shall require all persons applying for any land development
34 permit or approval to show the existence and location of any water
35 well upon a map of the property the subject of the application.
36 When a well is shown, the map shall be referred to the district
37 immediately upon receipt for review and investigation. If upon
38 review and investigation the district determines that the well or
39 wells are to be sealed by the applicant pursuant to the ordinance,

1 the determination shall be transmitted promptly to the applicant by
2 the district as a requirement in writing.

3 SEC. 240. The amendment and renumbering of the heading
4 of Article 5 (commencing with Section 5096.652) of Chapter
5 1.696 of Division 2 of the Public Resources Code proposed by
6 Section 182 of this act shall only become operative if Proposition
7 40 is approved by the voters at the March 5, 2002, statewide direct
8 primary election.

9 SEC. 241. Any section of any act enacted by the Legislature
10 during the 2002 calendar year that takes effect on or before January
11 1, 2003, and that amends, amends and renumbers, adds, repeals
12 and adds, or repeals a section that is amended, amended and
13 renumbered, added, repealed and added, or repealed by this act,
14 shall prevail over this act, whether that act is enacted prior to, or
15 subsequent to, the enactment of this act. The repeal, or repeal and
16 addition, of any article, chapter, part, title, or division of any code
17 by this act shall not become operative if any section of any other
18 act that is enacted by the Legislature during the 2002 calendar year
19 and takes effect on or before January 1, 2003, amends, amends and
20 renumbers, adds, repeals and adds, or repeals any section
21 contained in that article, chapter, part, title, or division.

